

## **Bihar Coal Mining Area Development Authority Act, 1986**

**9 of 1986**

**[01 October 1986]**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short Title, Extent And Commencement
2. Definitions

#### **CHAPTER 2 :- Chapter II**

- 3 . Declaration Of The Coal Mining Development Area And The Constitution Of The Development Authority
- 4 . Power To Withdraw Coal Mining Development Area From Operation Of This Act
5. Constitution Of Coal Mining Area Development Authority For Coal Mining Development Area
6. Appointment Of Secretary To The Authority
7. Term Of Office And Conditions Of Service Of The Chairman And The Members Of The Authority
- 8 . Functions And Powers Of The Coal Mining Area Development Authority
9. Meeting Of The Authority
10. Constitution Of Consultative And Co-Ordination Committees
- 11 . Temporary Association Of Persons With The Authority And Consultative And Co-Ordination Committee For Particular Purposes
12. Staff Of The Authority

#### **CHAPTER 3 :- PREPARATION OF PRESENT LAND USE MAP.**

13. Preparation Of Present Land Use Map And Register
14. Notice Of The Preparation Of The Map And Register
15. Power Of Government In Case Of Default Of Authority To Prepare The Map And Register

#### **CHAPTER 4 :- DEVELOPMENT PLAN**

16. Development Plan
17. Preparation Of The Plan By The Authority And Sanction Thereof
- 18 . Power Of Government To Require Authority To Prepare A Development Plan In Respect Of Coal Mining Development Area
19. Power Of Government In Case Of Default Of Authority To Prepare Development Plan

20. Approval Of The Government To The Publication Of Notice Of Preparation Of Development Plan
21. Public Notice Of The Preparation Of The Development Plan
22. Approval By The Government
23. Coming Into Operation Of The Development Plan
24. Modification And Review Of Development Plan
25. Minor Changes In The Development Plan
26. Modifications And Changes In The Development Plan To Be Placed On The Table Of The House In The State Legislature
27. Power To Acquire Land, Under The Land Acquisition Act, 1894

## **CHAPTER 5 :- CONTROL OF DEVELOPMENT AND USE OF LAND**

28. Use And Development Of Land To Be In Conformity With Development Plan
29. Prohibition Of Development Without Payment Of Development Charges And Without Permission
30. Permission For Development
31. Appeal Against Grant Of Permission Subject To Condition Or Refusal Or Permission
32. Lapse Of Permission
33. Obligation To Acquire Land On Refusal Of Permission Of, On Grant Of Permission In Certain Cases
34. Compensation For Refusal Of Permission Or Grant Of Permission Subject To Conditions In Certain Cases
35. Power Of Revocation And Modification Of Permission To Develop
36. Penalty For Unauthorised Development Or For Use Otherwise Than In Conformity With The Developments
37. Power To Require Removal Of Unauthorised Development
38. Power To Stop Unauthorised Development
39. Power To Require Removal Of Authorised Development Or Use
40. Interim Provision Pending Preparation Of Development Plan.

## **CHAPTER 6 :- DEVELOPMENT SCHEMES**

41. Development Schemes Preparation Of Development Schemes
42. Contents Of The Scheme
43. Reconstitution Of Plots Scheme
44. Publication Of Scheme
45. Power Of The Government To Require The Authority To Make Scheme
46. Power Of The Government To Suspend Rule, Bye-Law, Etc
47. Disputed Ownership
48. Restrictions On Use And Development Of Land After Publication Of Scheme
49. Power To Acquire Land
50. Power To Purchase Land Or Lease By Agreement
51. Magistrate To Enforce Delivery Of Possession Of Land
52. Public Notice Of The Scheme
53. Withdrawal Of Scheme By The Authority
54. Effect Of Scheme

55. Determination Of Certain Matters By The Authority
56. Appeal
57. Constitution Of Tribunal Of Appeal
58. Place Where Tribunal May Sit
59. Decision Of Questions Of Law And Other Questions
60. Powers Of Tribunal To Decide Matter Finally
61. Tribunal Not To Be A Court
62. Remuneration Of Assessors And Payment Of Incidental Expenses To Tribunal
63. Decision Of Authority To Be Final In Certain Matters
64. Power Of Authority To Evict Summarily
65. Power To Enforce Scheme
66. Power To Vary Scheme On Ground Of Error, Irregularity Or Informality
67. Power To Vary Development Scheme
68. Apportionment Of Scheme Withdrawn
69. Cost Of Scheme
70. Calculation Of Increment
71. Contribution Towards Cost Of Scheme
72. Certain Amount To Be Added To Or Deducted From Contribution Leviable From Person
73. Transfer Of Rights From Existing To Reconstituted Plot Or Extinction Of Such Right
74. Compensation In Respect Of Property Or Right Injuriouly Affected By Scheme
75. Exclusion Or Limitation Of Compensation In Certain Cases
76. Provision For Cases In Which Amount Payable To Owner Exceeds Amount Due From Him
77. Provision For Cases In Which Value Of Developed Plots Is Less Than Amount Payable By Owner
78. Payment By Adjustment Of Account
79. Payment Of Net Amount Dues To Authority
80. Power Of Authority To Make Agreement
81. Recovery Of Arrears
82. Execution Of Works In The Scheme By Authority
83. Responsibility Of The Authority
84. Power Of The Authority To Implement Schemes Of Other Agencies Including Government Departments In Case Of Default
85. Schemes Prepare Under The Previous Acts

## **CHAPTER 7 :-LEVY ASSESSMENT AND RECOVERY OF DEVELOPMENT CHARGE**

86. Levy Of Development Charge
87. Rates Of Development Charges
88. Assessment Of Development Charge
89. Levy Of Tax On Use Of Land For Other Than Agricultural And Residential Purposes
90. Charges For Water Supply
- 90A. Declaration And Purpose Of Market Area

90 B. Collection Of Market Fee And Allocation Of Fund For Development

91. Order Of Assessment

92. Appeals Against Assessment

93. Development Charge To Be A Charge On Land To Be Recoverable As Arrears Of Land Revenues

94. Contribution From The Municipal Funds

95. Contribution From Other Funds

## **CHAPTER 8 :- FINANCE ACCOUNTS AND AUDIT**

96. Fund Of The Authority

97. Budget Of The Authority

98. Section 98

99. Annual Reports

100. Pension And Provident Funds

## **CHAPTER 9 :- SUPPLEMENTARY IN MISCELLANEOUS PROVISIONS**

101. Power Of Entry

102. Right Of User

103. Service Of Notices, Etc

104. Public Notice How To Be Made Known

105. Notices, Etc., To Fix Reasonable Time

106. Authentication Of Orders And Documents Of The Authority

107. Mode Of Proof Of Records Of The Authority

108. Restriction On The Summoning Of Officers And Servants Of The Authority

109. Offences By Companies

110. Penalty For Obstructing Contractor Or Removing Mark, Etc

111. Sanction Of Prosecution

112. Composition Of Offences

113. Magistrates Power To Impose Enhanced Penalties

114. Right To Appear By Recognised Agent

115. Power To Compel Attendance Of Witnesses

116. Jurisdiction Of Courts

117. Fine When Realised To Be Paid To The Authority

118. Members And Officers To Be Public Servants

119. Protection Of Action Taken In Good Faith

120. Finality Of Orders

121. Validation Of Acts And Proceedings

122. Power To Delegate

123. Power Of Coal Area Development Authority To Borrow Money

124. Control By The Government

125. Return And Information

126. Effect Of Laws

127. Power To Require The Owner Or Occupier To Execute Certain Measures

128. Power To Make Rules

129. Power To Make Regulations

130. Laying Of Rules And Regulations Before State Legislature

131. Dissolution Of Authority

132. Repeals And Savings

## **Bihar Coal Mining Area Development Authority Act, 1986**

**9 of 1986**

**[01 October 1986]**

An Act, to provide for the growth and development of Coal Mining Areas in the State and for matters ancillary thereto. Be it enacted by the Legislature of the State of Bihar in the Thirty seventh year of the Republic of India as follows:-

**Comments & Case Law**

**Removal of unauthorized construction of a hotel building-Facts that without getting the plan sanctioned for the entire area, the building constructed over more than the sanctioned area-Held, no protection can be given as the construction is illegal-Prayer for claim rejected. Hotel V.I.- Pvt. Ltd. Dhanbad vs. State of Bihar, 1999(3) BLJ 161:1999(3) BLJR 2027 : 1999(2) BBCJ286 : 1999(3) PLJR 145. Demolition-Unauthorized constructions can be demolished as after giving repeated notices to the petitioner as he had not made serious efforts to get the plan sanctioned. Hotel V.I.- Pvt. Ltd. Dhanbad vs. State of Bihar, 1999(3) BLJ 161 : 1999(3) BLJR2027 : 1999(2) BBCJ 286 : 1999(3) PLJR 145.Compensation- Compensation cannot be directed to pay for removal of unauthorized construction-However, the petitioner has been given liberty to submit a revised plan for ex-post sanction and/or fresh sanction of construction which will be disposed of by the authority within a period of two months. Hotel V.I.- Pvt. Ltd. Dhanbad vs. State of Bihar, 1999(3) BLJ 161 :1999(3) BLJR 2027 :1999(2) BBCJ286: 1999(3) PLJR 145. 1. Substituted "Mineral" for "Coal Mining" in the body of the Act, vide Bihar Coal Mining Area Development Authority (Arndt.) Act, 1992. Sees. 2 & 3 (i).**

### **CHAPTER 1 PRELIMINARY**

#### **1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Bihar [Mineral]<sup>1</sup> Area Development Authority Act, 1986;

(2) It extends to the whole of the State of Bihar;

(3) It shall come into force on such date and in such areas as the State Government may, by notification in the Official Gazette, appoint.

1 . Substituted for "Coal Mining" vide Bihar Coal Mining Area

Development Authority (Amdt.) Act, 1992, Secs. 2 & 3 (i).

## **2. Definitions :-**

In this Act unless the context otherwise requires-

- (1) Amenity includes road, water-supply, street lighting, housing, drainage, sewage, public works, housing, play-fields, parks, educational Health and Medical community and recreational facilities and such other conveniences as the State Government may, by notification in Official Gazette, specify to be an amenity for the purposes of this Act;
- (2) Authority means the [Mineral]1 Area Development Authority constituted under section 5 of this Act;
- (3) Building Operation includes erection or re-erection of building or any part thereof, roofing or re-roofing of any part of a building or of any open space, any material alteration or enlargement of a Building, any alteration of a building as is likely to affect its drainage or sanitary arrangements or materially affect its security or the construction of a door opening or any street or land not belonging to the owner;
- (4) [Mineral]1 Development Area means any area declared to be a [Mineral]1 Development Area under sub-section (1) of section 3 of this Act;
- (5) Court means a principal Civil Court of original jurisdiction and includes any other civil court empowered by the Government to perform the functions of the court under this Act within the pecuniary and local limits of its jurisdiction;
- (6) Development with its grammatical variations means the carrying out of building engineering, quarrying for building materials or other operations in or over or under land or the making of any material change in any building or land and includes re-development and layout and sub-division of any land and to develop shall be construed accordingly;
- (7) Development Plan means the draft Development Plan and the final Development Plan prepared under this Act;
- (8) Engineering Operations include the formation of laying out of streets or roads or means of access to a road or laying out of means of water supply, drainage, electricity, gas, transportation and other public utility service;
- (9) Government means the State Government;
- (10) Land shall have the meaning as assigned to it in section 3 of the Land Acquisition Act, 1894 (Act I of 1894) and includes benefit

to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(11) Local Authority means any Municipal Corporation or Local body constituted under the Bihar and Orissa Municipal Act, 1922 (B. and O. Act VII of 1922) or Panchayat established under the Bihar Panchayati Raj Act, 1948 (Bihar Act VII of 1948) or any such local body constituted in any area to which this Act applied;

(12) Local Newspaper means daily newspaper recognised by the State Government published or circulated within the planning area;

(13) Means of access includes any road or means of access whether Private or Public, for vehicles or pedestrians;

(14) Occupier includes-

(a) tenants;

(b) an owner in occupation of, or otherwise using his land;

(c) a rent-free tenant of any land;

(d) a licensee in occupation of any land;

(e) lessee or sub-lessee or any other person in occupation of land; and

(f) any person, who is liable to pay to the owner rent, damage or any kind of payment for the use and occupation of any land.

(15) Operational Construction means such constructions as may be prescribed to be so by the State Government;

(16) Owner means a mortgagee in possession, a person, who for the time being is receiving or is entitled to receive, or has received the rent or premium for any land whether on his own account or on account of, or on behalf of or for the benefit of any other person or as an agent, trustee, guardian or receiver for any other person or for any religious or charitable institution or who would so receive the rent or premium if the land were let to tenant and includes the Head of a Government Department, General Manager of a Railway, the Secretary or other Principal Officer of a Local Authority, statutory Authority or company in respect of properties under their respective control;

(17) Prescribed means prescribed by rules or regulations made under this Act;

(18) Prescribed Authority means the authority prescribed under this Act;

(19) Public Place means any place or building which is open to the use and enjoyment of the public whether it is actually used or enjoyed by the public or not, and whether the entry is regulated by any charge or not;

(20) Regulation means a regulation made under this Act by the

[Mineral]1 Area Development Authority and includes zoning and the regulations made as part of a development plan;

(21) Rule means a rule made under this Act by the State Government;

(22) Scheme means a development scheme and includes a plan or plans together with the descriptive matters, if any, relating to such a scheme;

(23) Words and expressions not defined under this Act shall have the same meaning as in the Indian Mines Act, 1923, and the Bihar and Orissa Municipal Act, 1922 [and the Bihar Agricultural Produce Market Act, 1960]2.

3[(24) Commodity means any commodity produced or extracted chemically or mechanically or with the help of tools and equipment driven manually or by power other than the agricultural products as specified in the list to be prepared under clause (ii) of section 90-A of this Act

(25) Market Area means any area which may be declared as such under section 90-A of this Act;

(26) Factory or Production Centre means any place or premises or area where production or extraction of any commodity takes place;

(27) Fee means the amount chargeable under section 90-A of this Act;

(28) Licence means a licence granted under clause (iii) of Section 90-A of this Act].

1. Substituted for "Coal Mining" vide Bihar Coal Mining Area Development Authority (Amdt.) Act, 1992, Secs. 2 & 3 (i).

2. Comma (,) after 1923, Omission of and and addition of "and the Bihar Agriculture Produce Market Act, 1960" by removing the full stop (.) after 1922 vide Sec. 3(ii) *ibid*.

3. New Clauses 24 to 28 added by Sec. 3(ii) *ibid*.

## **CHAPTER 2** Chapter II

### **3. Declaration Of The Coal Mining Development Area And The Constitution Of The Development Authority :-**

(1) The Government may, by notification in the Official Gazette, declare any coal mining area including such adjacent or contiguous areas in the State, to be a Coal Mining Development Area for the purpose of this Act.

(2) The above said notification shall define the limits of the area to which it relates.

(3) The Government may, by notification thereafter alter the limits

of the area so as to include therein or exclude therefrom such areas as may be specified in the notification.

#### **4. Power To Withdraw Coal Mining Development Area From Operation Of This Act :-**

(1) The Government may, by notification, withdraw from the operation of the relevant provisions of this Act whole or a part of any Coal Mining Development Area declared thereunder.

(2) When a notification is issued under this section in respect of any area-

(a) the relevant provisions of this Act and all notifications, rules and regulations, orders, directions and powers issued, made or conferred thereunder shall cease to apply to the said area.

(b) the Government shall after consulting the local authority/authorities concerned frame a scheme determining what portion of the balance of the fund of the Authority shall vest in the Government and the local authority/authorities concerned and in what manner the properties and liabilities of the authority shall be apportioned between the Government and the local authority/authorities and on the scheme being notified the fund properties and liabilities of the Authority shall vest and be apportioned accordingly.

#### **5. Constitution Of Coal Mining Area Development Authority For Coal Mining Development Area :-**

(1) As soon as may be after declaration of the Coal Mining Development Area as notified under section 3(1), the Government shall by notification in the Official Gazette with effect from such date as the Government may appoint in this behalf establish a Coal Mining Area Development Authority (hereinafter referred to as the Authority) for Coal Mining Development Area.

(2) The Authority shall be body corporate with perpetual succession and a common seal and subject to such restrictions or qualifications as may be imposed by or under this Act or any other laws use or be used in its corporate name or acquire or dispose of property, moveable or immovable or enter into contracts and do all things necessary proper or expedient for the efficient performance of the functions assigned to it under this Act.

(3) The authority so established under sub-section (1) above shall consist of the following members:-

(a) A Chairman shall be a person to be appointed by the

Government;

(b) A Technical member to be appointed by the Government;

(c) The Chief Town Planner of the Government;

(d) The Divisional Commissioner concerned with the 1[Mineral Area Development Authority and the District Magistrate of the District declared as Mineral Area Development Authority under sub-section (1) of Section 3.];

(e) Three members of the Bihar Legislative Assembly from the Coal Mining Development Area elected by the Bihar Legislative Assembly in the manner prescribed;

(f) Two members nominated by the State Government of which one shall be Scheduled Caste and one shall be Scheduled Tribe;

(g) 1[Two] representative of the Ministry of the Central Government dealing with [Mines and Minerals]1;

(h) A representative of the Town and Country Planning Organisation of the Government of India;

(i) Two representatives of the Coal Mining interests in the Coal Mining Development Area to be nominated by the Central Government;

(j) Not more than two representatives of the local bodies in the Coal Mining Development Area to be nominated by the Government;

(k) Secretary, Urban Development Department shall be ex officio member; and

(l) Managing Director of the Authority, who shall be a whole time Government Officer, appointed by the Government.

(4) The Managing Director and the Technical member shall be whole time officers of the Authority.

(5) The Managing Director shall be the Chief Executive Officer of the Authority.

1. Substituted vide Section 4 of the Bihar Coal Mining Area Development Authority (Amend.) Act, 1992 [24 of 1992]. Assented to by the Governor on 29.8.1992.

## **6. Appointment Of Secretary To The Authority :-**

The Government shall appoint a Government Officer as the Secretary to the Authority, who shall not be a member of Authority. The Secretary shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to him by the Authority.

## **7. Term Of Office And Conditions Of Service Of The**

## **Chairman And The Members Of The Authority :-**

(1) The term of office of the Chairman and the members of the Authority shall be of three years and conditions of service shall be such as may be prescribed under rules and they shall be entitled to receive such salaries or allowances or both as may be fixed by the Government.

(2) The Government may, if thinks fit, terminate appointment/nomination of the Chairman and any member of the Authority except the members elected by the Legislative Assembly in the prescribed manner at any time and in consultation with the Central Government with them in terms of section 5 where Central Government have been consulted in respect thereof.

(3) Any vacancy so created shall be filled by fresh appointment/nomination by the Government.

(4) The Chairman or any member of the Authority may resign his membership by giving notice in writing to the Government and on such resignation being accepted by the Government, he shall cease to be a member of the Authority.

## **8. Functions And Powers Of The Coal Mining Area Development Authority :-**

(1) Subject to the provisions of this Act and the rules framed thereunder and any directions which the Government may issue in this regard, the functions of the Authority shall be and it shall have power to-

1(1a) For the purposes of performing the function mentioned in sub-section (1) it shall be lawful for any officer of the Authority-

(i) to enter in or upon any land to make survey and to take level of such land;

(ii) to dig or bore into the sub-soil;

(iii) to make levels and boundaries by planting marks and cutting trenches;

(iv) to cut down and clear away any part of any standing crop, fence or jungle where the survey cannot be completed, levels cannot be taken and boundaries cannot be marked otherwise;

(v) to examine works under construction and to ascertain the course of sewers, drains, or other utilities."

(a) carry out a survey of the Coal Mining Development Area and prepare reports on the surveys so carried out;

(b) prepare an existing land use map and such other maps as may

be necessary for the preparation of Development Plan;

(c) prepare a Development Plan of the Coal Mining Development Area and to enforce and execute it;

( d ) guide, assist, advice, direct, supervise and co-ordinate development activities of all department and agencies operating within the Coal Mining Development Area;

(e) suggest priorities to Government Department and other concerned development agencies with regard to development schemes undertaken by agencies operative within the Coal Mining Development Area;

(f) undertake or cause to be undertaken execution of projects and schemes in the Coal Mining Development Area and supervise and co-ordinate the execution of projects and schemes by other agencies operating in the Coal Mining Development Area;

(g) provide for the development of infrastructure facilities including roads, education, welfare of Scheduled Caste and Scheduled Tribe, water supply, electricity, drainage, etc.;

(h) take such steps as may be necessary to prevent the sinking of towns in the Coal Mining Development Area;

(i) bring back into an appropriate use of land under derelict mines;

(j) exercise environment control and prevent pollution caused by or arising out of mining operations;

(k) take such steps as may be necessary to prevent and to remove nuisance affecting public health;

(l) regulate the disposal of sewage, rubbish and maintain public conveniences, drains, cesspools, etc., within the Coal Mining Development Area;

(m) assess and plan for the needs of the coal mining agencies and the people in the Coal Mining Development Area and provide community facilities, maintain sanitation, health and educational facilities and promote health, safety and welfare of the public in the area;

(n) take such steps as may be necessary and expedient to prevent the outbreak and spread of epidemic diseases and provide for the proper treatment of the sick, the establishment and maintenance of hospitals and dispensaries and the appointment of medical staff in the Coal Mining Development Area; and

(o) perform any other function which is supplemental, incidental or consequential to any of the function aforesaid or which may be prescribed.

(2) The Coal Mining Area Development Authority may exercise also such powers as may be necessary or expedient for the purpose of

carrying out its functions under this Act.

1. New sub-section (1a) inserted by *ibid*.

## **9. Meeting Of The Authority :-**

(1) The Authority shall meet as and when necessary and at least six times in a year at such times and places as the Chairman may determine in this behalf and shall observe such procedure as may be prescribed in regard to the transactions of its business or such meetings.

(2) The Chairman or in his absence any member chosen by the members from amongst themselves shall preside at a meeting of the Authority.

## **10. Constitution Of Consultative And Co-Ordination Committees :-**

(1) The Government shall, constitute a Consultative and Co-ordination Committee for the purpose of advising the Coal Mining Area Development Authority on the preparation of the Development Plan, co-ordinating the annual plans and programmes of various development agencies and Government Department functioning within the Coal Mining Development Area and to generally co-ordinate the overall functioning of such development agencies in the implementation of the Development Plan.

(2) The Consultative and Co-ordination Committee shall consist of the following members:-

(a) The Chairman of the Coal Mining Area Development Authority shall be the Chairman-ex officio;

(b) All other members of Coal Mining Area Development Authority;

(c) Engineer-in-Chief, Road/Building or any Chief Engineer authorised by him;

(d) Engineer-in-Chief, P.H.E.D. or any Chief Engineer authorised by him;

(e) Director of Industries;

(f) Director of Agriculture;

(g) Chief Conservator of Forests;

(h) Chief Engineer, State Housing Board;

(i) Director of Education, Director of Primary Education, Director of Secondary Education and Deputy Commissioner;

(j) Director of Health Services;

(k) Maximum three representatives of the labour union, recognised by the Government, relating to the Coal Mining, labour of the Coal

Mining Area Development, to be nominated by the Government;

(l) Chairman of the concerned Zila Parishad-ex officia,

(m) Representatives of the following Ministries/Departments:-

(i) Railways;

(ii) Tourism and Civil Aviation;

(iii) Transport and Communications;

(iv) Regional Planning, Housing and Urban Development;

(v) Mines Safety.

(3) The Consultative and Co-ordination Committee may meet as often as necessary and at least four times in a year at such times and places as the Chairman may determine in this behalf and shall observe such procedure as may be prescribed in regard to the transaction of its business of such meetings.

### **11. Temporary Association Of Persons With The Authority And Consultative And Co-Ordination Committee For Particular Purposes :-**

The Authority and the Consultative and Co-ordination Committee may associate with themselves in such manner and for such purpose as may be prescribed, and any person whose assistance or advice they may consider necessary in performing any of their functions defined under this Act.

### **12. Staff Of The Authority :-**

(1) Subject to such control and restrictions as may be prescribed by the rule, the Authority may appoint such members or other officers and employees (including experts for technical works) as may be necessary for the efficient performance of its functions and may determine their designations and grades.

(2) The Secretary and the other officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances. If any, and shall be governed by such conditions of service as may be determined by regulations made in this behalf.

## **CHAPTER 3 PREPARATION OF PRESENT LAND USE MAP.**

### **13. Preparation Of Present Land Use Map And Register :-**

As soon as may be the Authority shall, not later than six months after its constitution or within such time as the Government may, from time to time extend, prepare a present Land Use Map

(hereinafter called the map) and Land Use Register taking the whole area or part thereof at a time in the form to be prescribed indicating the present use of every piece of land in the Coal Mining Development Area.

#### **14. Notice Of The Preparation Of The Map And Register :-**

(1) After the preparation of the map and the register, the Authority shall publish a public notice of the preparation of the map and register, and/or the place or places where copies of the same may be inspected, inviting objections in writing from any person with respect to the map and register within 30 days of the publication of such notice.

(2) After the expiry of the period mentioned in sub-section (1) an officer designated by the Authority or a Committee appointed by the Authority for the purpose shall, after allowing a reasonable opportunity of being heard to all the persons, who have filed the objections, make a report to the Authority.

(3) The Authority shall consider the report as submitted under sub-section (2) and may make such modifications in the map or register or both as it considers proper and adopt the map and the register by resolution.

(4) As soon as may be, after the adoption of the map and the register, the Authority shall publish a public notice of the adoption of the map and the register and the place or places where copies of the same may be inspected and shall submit copies of the map and register to the Government.

(5) A copy of such notice shall also be published in the Official Gazette. The publication of the copy of the public notice in the Official Gazette in respect of the map and register shall be conclusive evidence of the fact that the map and register have been duly prepared and adopted.

#### **15. Power Of Government In Case Of Default Of Authority To Prepare The Map And Register :-**

(1) Where by virtue of the foregoing provisions of the Act a Map and a Register is to be prepared, then-

(a) if within the period prescribed or within such period which the Government has extended, no map or register has been prepared; or

(b) if at any time the Government is satisfied that the Authority is not taking steps necessary to prepare such a Map and Register

within that period, the Government may direct the Chief Town Planner of the State to prepare the Map and the Register.

(2) After preparation of the Map and the Register, the Chief Town Planner shall submit the same to the Government and shall follow the procedure and exercise the powers of the Authority under section 14 of the Act.

(3) Any expense incurred under this section in connection with the making of the Map and the Register with respect to the Coal Mining Development Area shall be paid by the Authority.

## **CHAPTER 4 DEVELOPMENT PLAN**

### **16. Development Plan :-**

(1) As soon as may be, after the declaration of the Coal Mining Development Area under section 3, Authority shall, not later than two years of such declaration or within such time as the Government may from time to time extend and subject to such directions as may be issued by the Government, prepare and submit to the Government a Development Plan for whole of the Coal Mining Development Area or any of its parts.

(2) The Development Plan shall (a) define the various Zones into which Coal Mining Development Area is to be divided for purpose of development and indicate the manner in which land in each zone is proposed to be developed and the stages by which any such development shall be carried out, (b) serve as a basic pattern of framework within which the development schemes are to be prepared.

(3) The Development Plan shall, as far as may be necessary, indicate define and provide for-

(i) Areas reserved for agriculture, public and semi-public open spaces, parks, playground, gardens and other recreational uses, green belt and natural reserve;

(ii) Comprehensive land allocation of areas or zones for residential, commercial, industrial and other purposes;

(iii) Complete road and street pattern and traffic circulation pattern for present and future requirements;

(iv) Major roads and street improvements;

(v) Areas reserved for public buildings and institutions and for new civic development;

(vi) Areas for future development and expansion and for new housing;

(vii) Water-supply, drainage, sewage, sewage disposal and other

- public utilities, amenities and services including electricity and gas;
- (viii) Proposals for flood control and prevention of water and air pollution control;
- (ix) Filling up or reclamation of low lying, swampy or unhealthy areas and levelling up of lands;
- (x) Proposals for re-development and improvement of existing built up areas;
- (xi) Preservation, conservation and development of areas of natural scenery and landscape;
- (xii) Preservation of features, structures or places of historical, industrial, architectural and scientific interest and educational value;
- (xiii) Provision for the improvement of areas of bad lay-out or obsolete development and slum areas and re-location of population;
- (xiv) Detailed development of specific areas for housing of coal miners, establishing industries, civil amenities, educational and cultural facilities;
- (xv) Preservation of erosion, provision for afforestation or reformation, improvement and re-development, waterfront areas, rivers and lakes;
- (xvi) Proposals for irrigation and hydro-electric works and other sources of water-supply;
- (xvii) Preservation of sites for new townships and other large-scale development projects which are required to be undertaken for the proper development of the Coal Mining Development Area or new towns;
- (xviii) Provision of ancillary industries development through establishment of industrial estates and industrial areas, institution for satisfactory and efficient development of infrastructure;
- (xix) Infrastructure for health, education, rural housing etc.;
- (xx) Shifting of industry and/or population from over-population and industrially congested areas and indicating the density of population or the concentration of industry and other economic activities to be allowed in any area;
- (xxi) Regulations to regulate within each zone the location, height, number of storeys and size and number of buildings and other structures, the size of yards and courts and other open spaces and the use of buildings, structures and land;
- (xxii) Such other matters as incidental to or emerging from the above.
- (4) The Development Plan shall indicate the stages by which the

proposals are proposed to be carried out together with the financial implications of each stage.

(5) The Development Plan shall designate land and subject to acquisition for any public purpose and in particular but without prejudice to the generality of this provision for the purposes of-

(i) the Union of India: the State and the local authorities or any other authority established by law and public utility concerns;

(ii) dealing satisfactorily with the areas of bad layout or obsolete development and Slum Areas and provisions for re-location of population;

(iii) the provision to open space, parks and playground;

(iv) securing the use of the land in the manner specified in the Development Plan;

(v) any of the matters as are referred to in sub-section (3);

(vi) the Draft Development Plan as submitted to the Government shall in particular include:-

(a) Recommendations to the Government regarding the directions to be issued to the concerned local authorities in the Coal Mining Development Area and the different departments of the Government, if any, in respect of enforcement and implementation of the proposals contained in the draft Development Plan;

(b) A report indicating the priorities assigned to works included in the Draft Development Plan and the phasing of the programme of development as such.

### **17. Preparation Of The Plan By The Authority And Sanction Thereof :-**

If any Development Plan/Master Plan for the Coal Mining Development Area or any parts thereof has already been approved and notified by the State Government under the provisions of the Bihar Town Planning and Improvement Trust Act, 1951 (Bihar Act 35 of 1951) or any other law for the time being in force in the State before the commencement of this Act, the Development Plan/Master Plan already approved and notified by the Government shall be deemed to have been prepared by the Authority and sanctioned by the Government under the relevant provision of the Act till such time the Coal Mining Area Development Authority modifies the Development Plan or prepares a fresh Development Plan.

### **18. Power Of Government To Require Authority To Prepare A Development Plan In Respect Of Coal Mining**

## **Development Area :-**

Notwithstanding anything contained in section 16, the Government may, by notification, require the Authority to prepare and submit to the Government before a fixed date a Draft Development Plan in respect of Coal Mining Development Area.

### **19. Power Of Government In Case Of Default Of Authority To Prepare Development Plan :-**

(1) Where by virtue of the foregoing provisions of this Act a Development Plan is to be prepared, then-

(a) If within the period prescribed or within such period which the Government has extended, no Development Plan has been prepared; or

(b) If at any time the Government is satisfied that the Authority is not taking steps necessary to prepare such a Development Plan within that period, the Government may direct the Chief Town Planner to prepare the Development Plan.

(2) After the preparation of the Development Plan, the Chief Town Planner shall submit the Development Plan to the Government and shall follow the procedure and exercise the powers of the Authority under sections 20, 21, 22 and 23 of this Act.

(3) Any expense incurred under this section in connection with the preparation of the Development Plan for the Coal Mining Development Area shall be paid by the Authority.

### **20. Approval Of The Government To The Publication Of Notice Of Preparation Of Development Plan :-**

As soon as may be, after the Development Plan has been submitted to the Government but not later than the time prescribed by the rules the Government shall direct the Authority to make such modifications in the Development Plan as the Government thinks fit and thereupon the Authority shall make these modifications.

### **21. Public Notice Of The Preparation Of The Development Plan :-**

(1) After the modifications, if any, directed by the Government, have been made, the Authority shall publish the public notice in the Official Gazette and in one or more local newspapers, of the preparation of the Development Plan and the place or places where

copies of the same may be inspected inviting objections in writing from any person with respect to the Development Plan within a period of sixty days.

(2) The notice of preparation of the Development Plan as provided under sub-section (1) above shall, notwithstanding anything contained in the Land Acquisition Act, 1894 be deemed to be declaration duly made under section 4 of the said Act.

(3) After the expiry of the period mentioned in sub-section (1) above, the Authority shall appoint a Committee consisting of the Technical Member and not more than two of its other members, to consider the objections filed under subsection 21(1) and report on them within such time as the Authority may fix in this behalf.

(4) The Committee so appointed shall have power to co-opt any other person, and such co-opted person shall have a right to take part in the discussions of the Committee relevant to the purpose but shall not have a right to vote at meeting and shall not be a member for any other purpose.

(5) The Committee so appointed shall afford a reasonable opportunity of being heard to any person, including representatives of Government Departments, or local authorities who has filed any objection, and who has made a request for being so heard.

(6) As soon as may be, after the receipt of the report from the committee, but not later than the time prescribed by the rules, the Authority shall consider the report of the Committee and may make such modifications in the Development Plan as it considers proper, and shall submit the Development Plan with or without modifications together with the report of the Committee to the Government.

## **22. Approval By The Government :-**

As soon as may be, after the receipt of the Development Plan, together with the report of the Committee, the Government may within six months either approve the Development Plan or may approve it with such modifications as it may consider necessary, or may return the Development Plan to the Authority to modify the Plan or to prepare a fresh Plan in accordance with such directions as the Government may issue in this behalf.

## **23. Coming Into Operation Of The Development Plan :-**

(1) Immediately after the Development Plan has been approved by the Government, the Authority shall publish a public notice in the

Official Gazette and in a local newspaper of the approval of the Development Plan and the place or places where copies of the Development Plan may be inspected.

(2) The publication of the notice in the Official Gazette of the approval of the Development Plan shall, notwithstanding anything contained in the Land Acquisition Act, 1894 be deemed to be a declaration duly made under section 6 of the said Act.

(3) The Development Plan shall come into operation from the date of publication of aforesaid notice in the Official Gazette.

(4) After the coming into operation of the Development Plan, such Development Plans as mentioned under section 25 of this Act shall stand modified or altered to the extent the proposals in these Development Plans are at variance with the Development Plan brought into effect under this Act.

#### **24. Modification And Review Of Development Plan :-**

(1) At any time after the date on which the Development Plan for the Coal Mining Development Area comes into operation, and at least once in every 10 years after that date the Authority may and if so directed by the Government, shall, after carrying out such fresh surveys as may be considered necessary or directed by the Government, review the Development Plan and make such modifications in the Development Plan as may be considered necessary and submit to the Government a draft modified Development Plan for approval.

(2) The provisions of sections 21, 22 and 23 shall mutatis mutandis apply to such a Development Plan.

#### **25. Minor Changes In The Development Plan :-**

At any time after the date on which the Development Plan comes into operation, the Coal Mining Area Development Authority may, with the prior approval of the Government, make such minor changes in the Development Plan as may be necessitated by topographical and cartographical errors and omissions, details of proposals not fully indicated in the Plan or changes arising out of the implementation of the proposals in the Development Plan: Provided-

(i) that all such changes are in the public interest, and (ii) that all such changes are notified to the public.

#### **26. Modifications And Changes In The Development Plan To**

## **Be Placed On The Table Of The House In The State Legislature :-**

All modifications and changes made in the Development Plan shall be placed on the table of the State Legislature. All modifications and changes of the development plan after approval of the State Government shall be placed on the table of both Houses of the State Legislature in ensuing session.

### **27. Power To Acquire Land, Under The Land Acquisition Act, 1894 :-**

Any land required, reserved or designated in a Development Plan or a development scheme shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 (Central Act I of 1894) and may be acquired under the said Act.

## **CHAPTER 5 CONTROL OF DEVELOPMENT AND USE OF LAND**

### **28. Use And Development Of Land To Be In Conformity With Development Plan :-**

After the coming into operation of any Development Plan in the Coal Mining Development Area, no person shall use or permit to be used any land or carry out any development in the aforesaid area otherwise than in conformity with such Development Plan-

(i) Provided that the continuance of the use of any land for the purpose and to the extent for and to which it is being used on the date on which such Development Plan comes into operation, may be allowed for such period and upon such terms and conditions as may be specified by the regulations made in this behalf.

(ii) Provided further that nothing in the section shall apply to the Coal Mines operation carried out under the provision of Coal Mines Nationalisation Act.

### **29. Prohibition Of Development Without Payment Of Development Charges And Without Permission :-**

(1) After the application of this Act to the Coal Mining Development Area and subject to the provision relating to the Development charge and other provisions of this Act no development, institution or charge of use of any land shall be undertaken or carried out in that area-

- (a) without obtaining a certificate from the Authority certifying that the development charge as leviable under this Act has been paid or that no such development charge is leviable;
- (b) without obtaining the permission in writing as provided for hereinafter: Provided that no such permission shall be necessary-
- (i) for carrying out such works for the maintenance, improvement, or other alteration of any building, which effect only the interior of the building or which do not materially effect the external appearance of the building;
  - (ii) for the carrying out by the Central or the State Government or any local authority of any works required for the maintenance or improvement of a highway, road or public street, building works carried out on land within the boundaries of such highways, road or public street;
  - (iii) for the carrying out by the Central or the State Government or any local authority of any works for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cables, or other apparatus including the breaking open of any street or other land for that purpose;
  - (iv) for the excavation (including wells) made in the ordinary course of agricultural operations;
  - (v) for the construction of unmetalled road intended to give access to land solely for agricultural purposes;
  - (vi) for normal use of land which has been used temporarily for other purposes;
  - (vii) in case of land, normally used for one purpose and occasionally used for any other purpose, for the use of land for that other purpose on occasions;
  - (viii) for use, for any purpose incidental to the use of a building for human habitation, or any other building or land attached to such building;
  - (ix) for prospecting operations for coal and other mining however, the Authority shall be informed of the details of the proposed scheme before such operations are undertaken by the lessee, sub-lessee or the mine-owner. The Authority shall have the right to suggest suitable modifications in the scheme keeping in view the overall development of the area.

### **30. Premission For Development :-**

- (1) Any person or body (excluding a department of Central or State Government or local Authority, a public sector undertaking)

intending to carry out any development on any land shall make an application in writing to the Authority for permission in such form and containing such particulars and accompanied by such document and plans as may be prescribed by the rules or the regulations:

Provided that the above provision shall be effective in those areas where the authority is to carry out the plan and it shall not be essential to get the map passed for those areas where the Authority is not to carry out any scheme.

(2) In the case of a department of Central or State Government or local authority intending to carry out any development other than operational constructions on any land the concerned department or authority, as the case may be, shall notify in writing to the Authority of its intention to do so, giving full particulars thereof, and accompanied by such documents and plans as may be prescribed by the Government from time to time, at least, one month prior to the undertaking of such development. Where the Authority has raised any objection in respect of the conformity of the proposed development either due to any development plan under preparation, or to any of the building bye-laws in force at the time, or due to any other material consideration, under sub-section

(4) the department or the local authority as the case may be, shall-  
(a) either make necessary modifications in the proposal for development to meet the objections raised by the Authority, or  
(b) submit the proposals for development together with the objections raised by the Authority to the Government for decision. When proposals and objections have been submitted no development shall be undertaken until the Government has finally decided on the matter within three months.

The Government on receipt of the proposals for development together with the objections of the Authority, shall in consultation with the Chief Town Planner, of the State either approve the proposals with or without modifications or direct the concerned Department or local Authority, as the case may be, to make such modifications in the proposals as they consider necessary in the circumstances. The provisions of sub-section (3) shall not apply in this case: Provided that the operational constructions of the departments or Central or State Government or local Authority or public sector undertakings as may be notified by the Government from time to time, shall be exempted from the purview of the Authority.

(3) On such application being duly made, and on payment of the development charge as may be assessed under Chapter VII-

(a) the Authority may pass an order within prescribed time in the following manner-

(i) granting permission unconditionally; or

(ii) granting permission subject to such condition as it may think fit; or

(iii) refusing permission;

(b) without prejudice to the generality of the foregoing clause, the Authority may impose condition-

(i) to the effect that the permission granted is only for a limited period that after the expiry of that period, the land shall be restored to its previous condition or the use of the land permitted shall be discontinued;

(ii) for regulating the development or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the Authority expedient for the purpose of the permitted development.

(4) The Authority in dealing with the applications for mutation shall have regard to-

(a) the provisions of the Development Plan, if it has come into operations;

(b) any other material consideration.

(5) When permission is granted subject to conditions or is refused the grounds of imposing such conditions or such refusal be recorded in the orders.

(6) Any such order shall be communicated within fifteen days to the applicant in the manner prescribed by regulations.

### **31. Appeal Against Grant Of Permission Subject To Condition Or Refusal Or Permission :-**

(1) Any applicant aggrieved by an order passed under the last foregoing section, or if no order is passed, under the foregoing section 30(3) may appeal, within one month of the communication of that order to him or after the expiry of the period of three months from the date of submitting the application in the manner and accompanied by such fees as may be prescribed by rules to the prescribed authority.

(2) The prescribed authority after receiving the appeal may give reasonable opportunity to the appellant and the Authority to be heard, may pass an order dismissing the appeal or allowing the appeal by-

(a) granting permission unconditionally; or

- (b) granting permission subject to such conditions as it may think fit; or
- (c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as it may think fit within three months.

### **32. Lapse Of Permission :-**

Every permission for any development granted under this Act shall remain in force for two years only from the date of such permission received; provided, that the Authority may on an application made in this behalf before the expiry of the aforesaid period extend such period in suitable cases for another period of one year.

### **33. Obligation To Acquire Land On Refusal Of Permission Of, On Grant Of Permission In Certain Cases :-**

(1) Where any person interested in the land aggrieved by an order in appeal under section 31 refusing to grant permission to develop the land, or granting permission subject to conditions, claims-

(a) that the land has become incapable of reasonably beneficial use in the existing state, or

(b) in a case where permission to develop the land was granted subject to conditions that the land cannot be rendered capable of reasonably beneficial use by carrying out the permitted development in accordance with these conditions, he may within three months and in the manner prescribed by the rules, serve on the Government a notice (hereinafter referred to as an acquisition notice) requiring the Government to acquire his interest in the land.

(2) A copy of such notice shall at the same time be served on the Authority.

(3) After receiving notice under clause (1) the Government shall appoint a person who shall give reasonable opportunity to the person interested in serving the acquisition notice and the Authority to be heard and shall submit a report thereon to the Government. After receiving such report, the Government-

(a) (i) if satisfied that the conditions specified in (a) or (b) of clause (1) are not fulfilled, or

(ii) if the order appealed against was passed on the ground of not complying with any provisions of this Act, rules or regulations that may be applicable, shall pass an order refusing to confirm the notice;

(b) if satisfied that the condition specified in (a) or (b) of clause (1)

are fulfilled regarding the land or any part of the land shall pass an order-

(i) confirming the notice; or

(ii) directing the Authority to grant such permission to develop the land or grant the permission subject to such condition as will keep the land capable of reasonably beneficial use.

(4) If within the period of one year from the date on which an acquisition notice is served under clause (1) the Government has not passed any order under the last foregoing clause, the notice shall be deemed to have been confirmed at the expiration of that period.

(5) Upon confirmation of the notice under either of the two last foregoing clauses, the Government shall proceed to acquire the land or that part of any land regarding which the notice has been confirmed within one year of confirmation of the acquisition notice.

#### **34. Compensation For Refusal Of Permission Or Grant Of Permission Subject To Conditions In Certain Cases :-**

(1) Where an order in appeal under section 31 refusing to grant permission or granting permission subject to conditions, relates to any of the following development:-

(a) the re-erection of a building which has been destroyed or demolished as long as the cubic content of the original building is not exceeded by more than one-tenth;

(b) the enlargement, improvement or other alteration of any building which was in existence on the date, the development plan relating to the area comes into operation for the first time, so long as the cubic content of the original building is not exceeded by more than one-tenth;

(c) the carrying out on land used for the purpose of agriculture of any building or other operation required for that purpose, other than operation for the erection, enlargement, improvement or alteration of a building for human habitation or of building used for the purpose of marketing of the produce of land;

(d) where any part of any building or other land which, on the date of coming into operation for the first time of the development plan relating to the area, is used for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose on that day, or as the case may be, on the area of the land so used on that date, the owner may, within the

time and in the manner prescribed by rules under this Act, claim upon the Authority, if he has not been served an acquisition notice, or if the acquisition is not confirmed by the Government under section 33, compensation for such refusal or for grant of permission subject to conditions:

Provided that no compensation shall be claimable if such refusal or grant of permission subject to condition was based on any provision of any Development Plan.

(2) The compensation shall be equal to-

(a) where permission is refused, the difference between the value of the land as if the permission had been granted and the value of the land in its existing state;

(b) where permission is granted subject to conditions, the difference between the value of the land as if the permission had been granted unconditionally and the value of the land with the permission granted subject to conditions.

(3) When a claim is received by the Authority the Technical Member shall, after giving an opportunity of being heard the applicant, made report to the Authority.

(4) The Authority shall, after consideration of the aforesaid report, assess the compensation and offer to the owner.

(5) If the owner does not accept the compensation and give notice, within such time as may be prescribed of his refusal to accept, the Authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and be binding on the owner and the Authority.

### **35. Power Of Revocation And Modification Of Permission To Develop :-**

(1) If it appears to the Authority that it is expedient, having regard to the Development Plan prepared or under preparation or to be prepared and to any other material consideration that any permission to develop land granted under this Act or any other law, should be revoked or modified the Authority may by an order, revoke or modify the permission to such extent as appears to it to be necessary:

Provided that-

(a) where the permission relates to the carrying out of building or other operations no such order;

(i) shall affect such of the operations as have been previously carried out;

- (ii) shall be passed after these operations have been completed;
  - (b) where permission relates to a change of use of land, no such order shall be passed at any time after the change has taken place.
- (2) When permission is revoked or modified by an order made under the last foregoing section, if the owner claims from the Authority within the time and in the manner prescribed, compensation for the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission which has been rendered abortive by the revocation or modification, the Authority, shall after giving the owner reasonable opportunity of being heard by an officer appointed by it in this behalf, and after considering the officers report, assess and offer such compensation to the owner as it thinks fit.
- (3) If the owner does not accept the compensation, and give notice, within such time as may be prescribed, of his refusal to accept, the Authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and the Authority.

### **36. Penalty For Unauthorised Development Or For Use Otherwise Than In Conformity With The Developments :-**

- (1) Any person, who-
- (a) in contravention of any Development Plan;
  - (b) without obtaining a certificate regarding Development change under section 29(1)(a);
  - (c) without permission as required under this Act;
  - (d) in contravention of any condition subject to which such permission has been granted;
  - (e) after the permission for development has been revoked under section 35; or
  - (f) in contravention of the permission which has been modified under section 35.

Whether at his own instance or at the instance of any other person or anybody commences, undertakes or carries out development, institutes, or charges use of any land or building shall be punishable with simple imprisonment for a term which may extend to six months, or with a fine which may extend to ten thousand rupees or with both and in the case of a continuing offence with further fine which may extend to five hundred rupees for everyday during which the offence continues after conviction for the first commission of the offence.

(2) Any person, who continues to use or allows the use of any land or building in contravention of the provisions of a Development Plan without having been allowed under section 28, or where the continuance of such use has been allowed under that section, continues such use after the period for which the use has been allowed or without complying with the terms and conditions under which the continuance of such use is allowed shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to five thousand rupees or with both and in the case of a continuing offence with a further fine which may extend to two hundred and fifty rupees for everyday during which such offence continues after conviction for the first commission of the offence.

### **37. Power To Require Removal Of Unauthorised Development :-**

(1) Where any development of land has been or is being carried out as described in section 36, the Authority shall serve on the owner a notice requiring him, within such period, not exceeding one month, as may be specified therein, after the service of the notice to take such steps as may be specified in the notice-

(a) in cases specified in clauses (a), (c) and (e) of section 36 to restore the land to its condition before the said development took place;

(b) in cases specified in clauses (d) and (f) of section 36 to secure compliance with the conditions or with the permission as modified;

(c) in case specified in clause (b) to pay the development charge and such penalty, if any, as may be prescribed by the rules.

(2) In particular, any such notice may, for the purpose aforesaid require-

(a) the demolition or alteration of any building or works;

(b) the carrying out on land, of any building or other operations; or

(c) the discontinuance of any use of land:

Provided that in case the notice requires the discontinuance of any use of land, the Authority shall serve a notice on the occupier also.

(3) Any person aggrieved by such notice may, within the said period and in the manner prescribed-

(a) apply for permission under section 30 of this Act for the retention of the land of any buildings or works or for the continuance of any use of the land, to which the notice relates; or

(b) appeal to the prescribed Authority.

(4) (a) The notice shall be of no effect pending the final determination or withdrawal of the application or the appeal.

(b) (i) The provisions of the foregoing sections 30, 31 and 32 apply in such applications with such modifications as may be necessary.

(ii) If such permission as aforesaid is granted on that application, the notice shall not take effect, or if such permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land, the notice shall not take effect regarding such building or works or such part of the land, but shall have full effect regarding other buildings or works or other parts of the land.

(5) The prescribed Authority may dismiss the appeal or accept the appeal by quashing or varying the notice as it may think fit.

(6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application for permission or the appeal under subsection (3) the notice or so much of it as continues to have effect or the notice with variation made in appeal is not complied with, the Authority may-

(a) prosecute the owner for not complying with the notice and in case where the notice required the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(b) (i) in the case of a notice requiring the demolition or alteration of any building or works or carrying out of any building or other operation itself cause the restoration of the land to its condition before the development took place and secure the compliance with the conditions of the permission or with the permission as modified, by taking such steps as the Authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations;

(ii) the Authority may recover the cost of any expenses incurred by it in this behalf from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (a) to sub-section (6) shall be punishable with simple imprisonment for a term which may extend to one year or with a fine which may extend to ten thousand rupees, or with both and, in the case of a continuing offence, with a further fine which may extend to five hundred rupees for everyday during which such offence continues after conviction for the first commission of the offence

### **38. Power To Stop Unauthorised Development :-**

(1) Where any development of land as described in section 36 is being carried out but has not been completed the Authority may serve on the owner and the person carrying out the development a notice requiring the development of land to be discontinued from the time to the service of such notice.

(2) Where such notice has been served the provisions of clause (b) to subsections (4) and (5) of section 37 shall apply with such modifications as may be necessary:

Provided that provisions of clause (a) of sub-section (4) of section 37 shall not apply and in spite of the filing of an application for permission for development of an appeal as provided in sub-section (3) of section 37, the notice shall continue to have full effect.

(3) Any person, who continues to carry out the development of land, whether for himself or on behalf of the owner or any other person, after such notice has been served, shall be punishable with simple imprisonment for a term which may extend to six months, or with a fine which may extend to ten thousand rupees, or with both and, when the non-compliance is a continuing one, with a further fine which may extend to five hundred rupees for everyday after the date of the service of the notice during which the non-compliance has continued or continues.

(4) If such notice is not complied with forthwith, the Authority, or such officer of the Authority, who may be authorised in this behalf, may require any police officer to remove such person and all assistants and workmen from the land at any time after the service of such notice and such police officer shall comply with the requisition accordingly.

(5) After the requisition under sub-section (4) has been complied with, the Authority or such officer of the Authority who may be authorised in this behalf, may, if he thinks fit, depute, by a written order, police officer or any officer or employee of the Authority to watch the land in order to ensure that the development is not continued.

(6) Where a police officer or an officer or employee of the Authority has been deputed under sub-section (5) to watch the land, the cost of such deputation shall be paid by the persons at whose instance such development is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as arrears of land revenue.

### **39. Power To Require Removal Of Authorised Development Or Use :-**

(1) If it appears to the Authority that it is expedient in the proper planning of its areas (including the interests of amenities) having regard to the Development Plan prepared, or under preparation, or to be prepared, and to any other material consideration;

(a) that any use of land should be discontinued; or

(b) that any condition should be imposed on the continuance thereof; or

(c) that any building or works should be altered or removed; the Authority may, by notice served on the owner-

(i) require the discontinuance of that use; or

(ii) impose such conditions, as may be specified in the notice, on the continuance thereof; or

(iii) require such steps, as may be specified in the notice to be taken for the alteration or removal of any building or works within a period not less than one month, as may be specified therein, after the service of the notice.

(2) Any person aggrieved by such notice, may within the said period and in the manner prescribed appeal to the prescribed authority.

(3) If an appeal is filed under the last foregoing sub-section the provisions of clause (a) of sub-section (4) and sub-section (5) of section 37 shall apply with such modifications as may be necessary.

(4) If any person-

(a) who has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land; or

(b) who has carried out any work in compliance with the notice, claims from the Authority, within the time and in the manner prescribed, compensation in respect of that damage, or of any expenses reasonably incurred by him for complying with the notice, the provisions of sub-sections (3) to (5) of section 34 shall apply with such modifications as may be necessary.

(5) (a) If any person interested in the land in respect of which a notice is issued under this section; claims that by reason of the compliance with the notice, the land will become incapable of reasonably beneficial use, he may within the period specified in the notice or within such period after the disposal of the appeal if any, filed under sub-section (2) and in the manner prescribed, serve on the Government an acquisition notice requiring his interest in the land to be acquired;

(b) When a notice is served under the last foregoing sub-section, the provisions of sub-sections (2) to (5) of section 33 shall apply with such modifications as may be necessary.

#### **40. Interim Provision Pending Preparation Of Development Plan. :-**

Where the Authority, in the exercise of its functions and powers with respect to any areas under it, is required to have regard to the provisions of a Development Plan before such Development Plan has become operative, the Authority shall have regard to the provisions which in its opinion will be required to be included for securing the proper planned development of the Coal Mining Development Area.

### **CHAPTER 6 DEVELOPMENT SCHEMES**

#### **41. Development Schemes Preparation Of Development Schemes :-**

(1) Subject to the provision of this Act or any other law for the time being in force, the Authority may, as soon as may be, after the Development Plan has been approved by the Government or if so directed by the Government, shall prepare one or more development schemes for the area within its jurisdiction or any part thereof;

(2) Such schemes may make provisions for all or any of the following matters, namely:-

- (i) Land acquisition, development and disposal of land;
- (ii) the laying out or relaying out of land, either vacant or already built upon;
- (iii) the filling up or reclamation of low-lying swampy or unhealthy areas or levelling up of land;
- (iv) lay-out of new streets or roads, construction, diversion, extension, alteration, improvement and stopping up of streets, roads and communications;
- (v) the reconstitution of plots;
- (vi) the construction alteration and removal of buildings, bridges and other structures;
- (vii) the allotment or reservation of land for roads open spaces, gardens, recreation grounds, schools, markets, industrial and commercial activities and public purposes of all kinds;
- (viii) undertaking housing schemes for different income groups,

commercial areas, industrial, educational and cultural institutions, recreational facilities, retail and wholesale trade, and similar type of developments;

(ix) drainage, inclusive of sewage, surface or sub-soil drainage and sewage disposal;

(x) lighting;

(xi) water-supply;

(xii) to prevent the sinking of towns in the Coal Mining Development area;

(xiii) flood control and anti-pollution scheme;

(xiv) to prevent the outbreak and spread of epidemic diseases, and provisions for sanitation and proper treatment of the sick establishment and maintenance of hospitals, and dispensaries and the appointment of medical staff in the Coal Mining Area;

(xv) detailed development of specific areas for housing of miners and provision for civic amenities;

(xvi) the preservation and protection of object of historical importance or natural beauty and of buildings actually used for religious purpose;

(xvii) the safety, healthy and welfare of persons within the mining settlements;

(xviii) the imposition of conditions and restrictions in regard to the open space to be maintained around building, area for a plot, the number, height and character of buildings allowed in specified area, the purposes for which buildings or specified area may or may not appropriate, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonably periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs;

(xix) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule, bye-law, regulation, notification or order made or issued under any Act of the State Legislature or any of the Acts which the State Legislature is competent to amend;

(xx) acquisition by purchase, exchange or otherwise of any property necessary for, or for the execution of the scheme;

(xxi) such other matters not inconsistent with the objects of this Act, as may be directed by the Government.

## **42. Contents Of The Scheme :-**

The scheme contains the following particulars as far as may be

necessary, that is to say-

- (a) the area, ownership and tenure of all existing plots covered by the scheme;
- (b) the land allotted or reserved under clause (vii) of sub-section (2) of section 41 with a general indication of the use to which such land is to be put and the terms and conditions subject to which such lands is to be put to such uses;
- (c) a full description of all the details of the scheme under such clause of sub-section (2) of section 41 as may be applicable;
- (d) the laying out or re-laying out of the land either vacant or already built upon;
- (e) the filling up or reclamation of low-lying swampy or unhealthy areas or levelling up of land;
- (f) the extent to which it is proposed to alter the boundaries of the existing plots in accordance with the proposed scheme;
- (g) an estimate of the total cost of the scheme and the net cost to be borne by the Authority.

#### **43. Reconstitution Of Plots Scheme :-**

(1) In a scheme, reconstituting the plot, the size and shapes of every reconstituted plot shall be determined, so far as may be, to render it suitable for building proposed, and, where a plot is already built upon to ensure that the buildings, as far as possible, comply with the provisions of the scheme as regards open spaces.

(2) For the purpose of sub-section (1), the scheme may contain proposals-

- (a) to form a final plot by reconstitution of an existing plot by alteration of the boundaries of the existing plot, if necessary;
- (b) to form a reconstituted plot from an existing plot by the transfer wholly or partly of the adjoining lands;
- (c) to provide, with consent of the owners, that two or more existing plots, held separately or jointly or in joint ownership shall, hereafter, with or " without alteration of boundaries, be held in ownership of their partners as a reconstituted plot;
- (d) to allot a reconstituted plot to any owner dispossessed of land in furtherance of the scheme; and
- (e) to transfer the ownership of an existing plot from one person to another.

#### **44. Publication Of Scheme :-**

(1) As soon as may be after the scheme under section 43(2) has

been prepared, the Authority shall publish the scheme in the Official Gazette and in one or more local newspapers specifying the place or places where copies of the same may be inspected, and inviting objection in writing from any person with respect to the scheme within such period as may be specified in the notice:

Provided that such period shall not be less than two months from the date the notice is published in the Official Gazette:

Provided further, that no such public notices under this sub-section in respect of the scheme shall be required where land covered by the scheme had already been acquired and the execution of the scheme does not affect the interest of any person/persons.

(2) Simultaneously with the publication of the scheme, the Authority shall submit copies of the notice and of the scheme to the Government drawing attention of the Government, particularly to the provision in the scheme, if any, referring to section 41, clause (xiv) to sub-section (2).

(3) The publication of the scheme as provided under sub-section (1) of section 44 above shall, notwithstanding anything contained in the Land Acquisition Act, 1894, be deemed to be a declaration duly made under section 4 of this Act.

#### **45. Power Of The Government To Require The Authority To Make Scheme :-**

(1) Notwithstanding anything contained in this Act the Government may, after making such enquiry as it deems necessary, direct the Authority to make and publish in the prescribed manner, a scheme in respect of any land in regard to which a development scheme may be made.

(2) If the Authority fails to make the scheme within three months from the date of direction made under sub-section (1), the Government may, by notification in the Official Gazette, appoint an officer to make and publish and submit scheme for the land to the Government and, thereupon the provisions of the Act shall, as far as may be applicable, apply to the making of such scheme.

#### **46. Power Of The Government To Suspend Rule, Bye-Law, Etc :-**

(1) Where the Authority has published the scheme in the Official Gazette under sub-section (1) of section 44 of this Act, the Government may, on an application of the Authority, by order published in the Official Gazette, suspend, to such extent only as

may be necessary for the purpose of carrying out of the scheme, any rule, bye-law, regulation, notification or order made or issued under any law which the Legislature of the State is competent to amend.

(2) Any order issued under sub-section (1) shall cease to operate in the event of the scheme being withdrawn by the Authority either on its own or under the directions of the Government under section 53.

#### **47. Disputed Ownership :-**

(1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which the draft scheme has been published and any entry in the records of rights or mutation register relevant to such disputed claims is inaccurate or inconclusive, an enquiry may be held, on a submission being made by the Authority at any time prior to the date of publication of the scheme, by such officer as the Government may appoint for the purpose of deciding who shall be deemed to be owner for the purpose of this Act.

(2) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(3) Such decision shall, in the event of the Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as may be practicable after such decree has been brought to the notice of the Authority either by the Civil Court or by some person affected by such decree.

(4) Where such a decree of the court is passed after the scheme has been published, such scheme shall be deemed to have been suitably varied by reason of such decree.

#### **48. Restrictions On Use And Development Of Land After Publication Of Scheme :-**

(1) On or after the date on which the scheme is published in Official Gazette under sub-section (1) of section 44 of the Act,-

(a) No person shall, within the area included in the Scheme, erect or proceed with any building work, remove, pull down, alter, make additions to or make any substantial repair to any building, part of a building, a compound wall or any drainage, work or remove any earth, stone or material, or sub-divide any land or building unless such person has applied for and obtained necessary permission

from the Authority in the form prescribed;

(b) The Authority, on receipt of such application, shall at once furnish the applicant with a written acknowledgement of its receipt and may, after an enquiry, either grant or refuse such permission or grant it subject to such condition as the Authority may think fit to impose. If the Authority communicates no decision to the applicant within three months from the date of such acknowledgement, the applicant shall be deemed to have been granted such permission;

(c) If any person contravenes the provisions contained in clause (a) or clause (b), the Authority may direct such person by notice in writing to stop any work in progress and after making enquiry in the prescribed manner, remove, pull down or alter any building or other work or restore the land in respect of which such contravention is made to its original condition;

(d) Any expense incurred by the Authority under sub-section (c) shall be a sum due to the Authority under this Act for the person in default or the owner of the plot.

(2) No person shall be entitled to compensation in respect of any damage, or injury resulting from any action taken by the Authority under sub-section (1) except in respect of the building work begun or contract entered into before the date of which the Authority published the scheme under sub-section (1) of section 44 or the Government published the notification under section 45 and it shall apply only in such building work as has proceeded with the publication of the scheme:

Provided that such claim to compensation in the expected cases shall be subject to the conditions of any agreement entered into between such person and the Authority.

(3) Where under clause (viii) of sub-section (2) of section 41 or under a scheme under section 42-

(a) the purpose to which any plot of land may not be used has been specified, such plot of land shall within such period of not less than one year, as may be specified in the scheme cease to be used for such purposes and shall be used only for the purpose specified in the scheme;

(b) the purpose to which any existing building may not be used has been specified, such building, shall within such period of not less than 3 years as may be specified in the scheme, cease to be used for the purpose other than the purpose specified in the scheme;

(c) the purpose to which any plot of land with existing building may not be used has been specified in the scheme and the existence of

such buildings is inconsistent with the provisions of the Scheme, such buildings shall within such period of not less than 10 years as may be specified in the scheme cease to exist:

Provided that such period shall not be less than reasonable life of the building;

no compensation shall be payable for any plot of land or building adversely affected by the making of a scheme.

(4) Any person or persons aggrieved by the decision of the Authority under this section may, within 60 days from the date of the decision, appeal to the prescribed authority and the order of the prescribed authority in the appeal shall be final.

(5) The provisions of section 36 shall mutatis mutandis apply in relation to the unauthorised development or use of land included in a development scheme.

(6) The restrictions imposed by this section shall cease to operate in the event of the scheme being withdrawn by the Authority on its own motion or on the direction of the Government under section 53.

#### **49. Power To Acquire Land :-**

(1) Where the Authority thinks that, in the interest of the public it is necessary to undertake forthwith any of the works included in a scheme for a public purpose, the Authority shall make an application to the Government to vest in it the land (without any building) shown in the scheme.

(2) If in the opinion of the Government any land is required for carrying out any function of the Authority under this Act, it shall be deemed to have been required for a "Public purpose" and the Government may acquire such a "Public purpose" and the Government may acquire such land for the Authority in accordance with Land Acquisition Act, 1894.

(3) Any land, either belonging to the Government or which has been acquired by the Government for the Authority may be handed over to the Authority by the Government by notification in the Official Gazette.

#### **50. Power To Purchase Land Or Lease By Agreement :-**

The Authority may enter into agreement with any person for the acquisition from him by purchase, lease or exchange, of any land or any interest therein which may be acquired under section 49:

Provided that if the value of such land exceeds fifty thousand

rupees, the Authority shall not enter into such agreement without the prior approval of the Government.

**51. Magistrate To Enforce Delivery Of Possession Of Land :-**

(1) If the Authority is opposed or impeded in taking possession of the land under section 49 it shall request the District Magistrate to enforce the delivery of possession of the land to the Authority. The District Magistrate shall take or cause to be taken such Steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the land to the Authority.

(2) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (1) includes the power to enter upon any land or other property whatsoever.

**52. Public Notice Of The Scheme :-**

(1) Simultaneously with the submission of the scheme to the Government, the Authority shall publish a public notice in the Official Gazette and in a local newspaper of the scheme and the place or places where copies of the scheme may be inspected.

(2) The public notice under sub-section (1) shall specify a date (which shall not be earlier than one month after the date of the publication of the public notice) on which all the liabilities created by the scheme shall take effect and the scheme shall come into force:

Provided that the Government may, from time to time, postpone such date, by notification in the Official Gazette by such period not exceeding three months at a time as it thinks fit.

The publication of the notice in the Official Gazette of the scheme, shall, notwithstanding anything contained in the Land Acquisition Act, 1894 be deemed to be a declaration duly made under section 6 of the said Act.

**53. Withdrawal Of Scheme By The Authority :-**

(1) If, at any time before the scheme is published under section 52, a representation is made by a majority of the owners of the area that the scheme should be withdrawn, the Authority shall invite from all persons having interests in the scheme, objections to such representations.

(2) After receiving the objections, and after making such enquiry as it may think fit, the Authority may by notification in the Official

Gazette, withdraw the scheme and upon such withdrawal, no further proceeding shall be taken in regard to such scheme.

(3) Simultaneously with such withdrawal, the Authority shall submit to the Government the copy of the notice withdrawing the scheme and a report of its enquiry made in this behalf.

(4) At any time prior to the publication of the scheme under section 44, the Government, if it is satisfied that it is in the public interest, may direct the Authority to withdraw a scheme whereupon the Authority shall withdraw the scheme by a notification published in the Official Gazette to that effect. Upon such withdrawal no further proceeding shall be taken in regard to such scheme.

#### **54. Effect Of Scheme :-**

On and after the day on which a scheme comes into force-

(a) all lands required by the Authority shall, unless it is otherwise determined in such scheme, vest absolutely in the Authority free from all encumbrances;

(b) all rights in the existing plots which have been reconstituted, shall determine and the reconstituted plots shall become subject to the rights settled by the Authority;

(c) the Authority shall handover possession of the reconstituted plots to the owners to whom they are allotted in the scheme.

#### **55. Determination Of Certain Matters By The Authority :-**

(1) As soon as may be after public notice of the scheme has been published in the Official Gazette under section 52(1) of this Act but not later than the time prescribed by the Authority shall, in accordance with the prescribed procedure proceed to,-

(a) define, demarcate and decide the area allotted to or reserved for the public purpose or purposes of the Authority and also the reconstituted plots;

(b) decide the person or persons to whom a reconstituted plot is to be allotted, and when such plot is to be allotted to persons in ownership in common, decide the shares of such persons;

(c) estimate the value of and fix the difference between the value of the existing plots and the values of the reconstituted plots included in the scheme, in accordance with the provisions contained in clause (f) of sub-section (1) of section 69;

(d) estimate the compensation payable for the loss of the area of the existing plot in accordance with the provisions contained in clause (f) of sub-section (1) of section 69 or in respect of any

existing plot which is wholly acquired under the scheme;

(e) determine whether the areas allotted or reserved for the public purpose or purposes of the Authority are beneficial, wholly or partly, to the owners or residents within the area of the scheme;

(f) estimate the proportion of the sums payable as compensation on each plot used, allotted or reserved for the public purpose or purposes of the Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme.

(g) determine the proportion of contribution to be levied on each plot used, allotted or reserved for a public purpose or purposes of the Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(h) determine the amount of exemption, if any, from the payment of the contribution that may be granted in respect of plots or portions thereof exclusively used or occupied for religious or charitable purposes at the date on which public notice of the scheme is published under section 52 of this Act;

(i) estimate the value of reconstituted plots included in the scheme and the increment to accrue in respect of such plots in accordance with the provisions of section 70;

(j) calculate the proportion in which the increment in respect of the reconstituted plots included in the scheme shall be liable to contribution to the cost of the scheme in accordance with the provisions contained in section 69;

(k) calculate the contribution to be levied on each reconstituted plot included in the scheme;

(l) determine the amount to be deducted from or added to, as the case may be, the contribution leviable from a person in accordance with the provisions contained in section 72;

(m) provide for the total or partial transfer of any right in an existing plot to a reconstituted plot or provide for the extinction of any right in an existing plot in accordance with the provisions contained in section 73;

(n) where a plot is subject to a mortgage with possession or a lease, decide the proportion of compensation payable to or contribution payable by the mortgagee or lessee on the one hand and the mortgager or lessor on the other;

(o) estimate with reference to claims made before it, after the notice given by it in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a scheme in accordance with the provisions

contained in section 74;

(p) determine the period in which the works provided in the scheme shall be completed by the Authority:

Provided that the Authority may make variations from the scheme subject to the condition that any variation estimated by it to involve an increase of ten per cent in the total cost of the scheme or rupees one lakh whichever is lower, shall require sanction of the Government:

Provided further that the Authority shall make no substantial variation without the consent of the Government and without hearing any objections which may be raised by the owners concerned.

(2) The Government may, if it thinks fit, whether the period prescribed by the rules for deciding all the matters stated in sub-section (1) above has expired or not, extend from time to time by a notification in the Official Gazette the period for deciding all the matters referred to in sub-section (1).

## **56. Appeal :-**

(1) (a) From every decision of the Authority in matters arising out of clauses (a), (b), (c), (n) and (o) of sub-section (1) of section 55 an appeal shall lie within forty five days from the date of the decision to the prescribed authority.

(b) Any person aggrieved by the decision in appeal of the prescribed authority in matters referred to in sub-section (1)(a) above may appeal within ninety days from the date of decision of the prescribed authority in appeal to the District Judge within the local limits of whose jurisdiction the area included in the scheme is situated.

(c) The District Judge may transfer the appeal filed before him to the Additional District Judge for disposal.

(d) The District Judge or the Additional District Judge, as the case may be, after making such enquiry, he may think fit, may either direct the Authority to reconsider the proposal or accept, modify, vary to reconsider the proposal or reject the proposals of the Authority and shall decide all matters arising out of clauses referred in clause (a) to sub-section (1) above.

(e) The decision of the District Judge or the Additional District Judge, as the case may be, shall be final and conclusive and binding on all persons. A copy of the decision in appeal shall be sent to the Authority.

(2) (a) Any decision of the Authority under clauses (d) to (m) (both inclusive) and clause (p) of sub-section (1) of section 55 shall be forthwith communicated to the party concerned and any party aggrieved by such decision may, within 60 days from the date of communication of the decision, appeal to the Tribunal of Appeal for decision of the appeal.

(b) The provisions of sections 5, 12 and 14 of the Indian Limitation Act, 1963 shall apply to appeals submitted under this section.

### **57. Constitution Of Tribunal Of Appeal :-**

(1) As soon as may be after the Authority has decided all the matters stated in section 55(1), the Government shall, after making such enquiry as it may think fit, appoint a Tribunal of appeal (hereinafter referred to as the Tribunal) to hear and decide appeals arising out of matters referred to in section 56(2)(a).

(2) The Tribunal shall consist of a Chairman and two Assessors.

(3) The Chairman shall be the District Judge or other Civil Judge as may be appointed by the Government on the recommendations of the District Judge.

(4) The Chairman with the consent of the State Government shall appoint fit and proper persons as Assessors who shall, as far as possible, have knowledge or experience of town planning, valuation of land or Civil Engineering.

(5) The Chairman and Assessors shall be appointed members of the Tribunal for such period as may be required by such Tribunal to decide an appeal made against the decision under clauses (d) to (m) (both inclusive) and clause (p) of sub-section (1) of section 55.

(6) The Government may, if it thinks fit, remove for incompetence or misconduct or any other good and sufficient reason any Assessor appointed under subsection (4).

(7) If any Assessor is removed or dies or refuses or neglects to act or becomes incapable of acting, the Chairman with the consent of the State Government shall appoint forthwith a fit and proper person to take the place of such Assessor.

### **58. Place Where Tribunal May Sit :-**

The Tribunal may sit either at the headquarters of the Chairman or at any other place within the local limits of his jurisdiction which he may deem convenient for the consideration and decision of any matter before such Tribunal.

## **59. Decision Of Questions Of Law And Other Questions :-**

All Questions of law and procedure shall be decided by the Chairman. All other Questions shall be decided by the Chairman and the two Assessors or by a majority.

## **60. Powers Of Tribunal To Decide Matter Finally :-**

(1) The Tribunal shall, after making such inquiry as it may think fit, decide all matters arising out of clauses (d) to (m) (both inclusive) and clause (p) only of sub-section (1) of section 55 in respect of appeals referred to the Tribunal; and may either confirm the proposals of the Authority or direct it, where necessary to reconsider, vary or modify its proposals only in respect of such matters aforesaid.

(2) Every decision of the Tribunal shall be final and conclusive and binding on all persons and parties including the Authority. A copy of the decision in appeal shall be sent to the Authority.

## **61. Tribunal Not To Be A Court :-**

Nothing contained in this Act shall be deemed to constitute the Tribunal to be a Court.

## **62. Remuneration Of Assessors And Payment Of Incidental Expenses To Tribunal :-**

(1) The Chairman and the Assessors shall, save where they are salaried Government Officers, be entitled to such remuneration either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the Government may, from time to time, decide:

Provided that, in exceptional cases where the scheme is a large one or the work involved is complicated, the Government may authorise the Chairman and the Assessor even if they are salaried Government Officers to receive such special salary or remuneration as the Government may, by order, decide from time to time.

(2) The salary of the Chairman of the Tribunal or an Assessor who is a salaried Government Officer, and any remuneration payable under sub-section (1) of this section and all expenses incidental to the working of the Tribunal shall, unless the Government otherwise determines, be defrayed out of the funds of the Authority and shall be added to the cost of the scheme.

### **63. Decision Of Authority To Be Final In Certain Matters :-**

(1) Where no appeal has been made under section 56, the decision of the Authority shall be final and binding on the parties.

(2) Where an appeal has been made under section 56 and a copy of the decision in appeal is received by the Authority it shall then where necessary, make variation in the scheme in accordance with such decision and may also rectify such errors or commissions, if any as may have been brought to its notice after publication of public notice of the schemes and shall also forward such schemes together with a copy of its decision and a copy of the decision in appeal to the Government.

### **64. Power Of Authority To Evict Summarily :-**

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Act 1 of 1882) the Code of Civil Procedure, 1908 (Act 5 of 1908) or any other law for the time being in force, the Authority or any of its Officers authorised in that behalf by the Authority may summarily evict any person or persons continuing to occupy such land which he is not entitled to occupy under the scheme, on and after the day on which the scheme comes into force.

(2) If the Authority is opposed or impeded in evicting such person or taking possession of the land from such person, the District Magistrate shall, at the request of the Authority, enforce the eviction of such person or secure delivery of possession of the land to the Authority.

### **65. Power To Enforce Scheme :-**

(1) On and after the day on which a scheme has been notified the Authority may after giving the prescribed notice and in accordance with the provisions of the Scheme-

(a) remove, pull down, or after any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection of which or carrying out of which, any provision of the scheme has not been complied with;

(b) execute any work which it is the duty of any person to execute under the scheme, in any case where it appears to that Authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by the Authority under this section may be recovered from the person in default or from its owner of

existing plot in the manner provided for the recovery of sums due to the Authority under the provisions of this Act.

(3) If any action taken by the Authority is questioned, the matter shall be referred to the Government or any officer authorised by the Government in this behalf and the decision of Government or of the officers as the case may be shall be final and conclusive and binding on all persons.

#### **66. Power To Vary Scheme On Ground Of Error, Irregularity Or Informality :-**

(1) If after the scheme has come into force, the Authority considers that the scheme is defective on account of an error, irregularity or informality or that the scheme needs variation or modification of minor nature the Authority shall, by notification in the Official Gazette, prepare and publish draft of such variation in the prescribed manner.

(2) The draft variation published under sub-section (1) shall state every amendment proposed to be made in the scheme and if any such amendment relates to a matter specified in any of the sub-clauses or sub-section (2) of section 41, the draft variation shall also contain such other particulars as may be prescribed.

(3) The draft variation shall be open to the inspection of the public at the office of the Authority during office hours.

(4) Not later than one month from the date of the publication of the draft variation, any person affected thereby may communicate in writing his objections to the Authority.

(5) After receiving the objections under sub-section (4), the Authority shall after making such enquiry as it may think fit, notify the variation with or without modification by notification in the Official Gazette.

(6) From the date of the notification of the variation with or without modifications, such variation shall take effect as if it were incorporated in the scheme.

#### **67. Power To Vary Development Scheme :-**

A development scheme may at any time be varied by a subsequent scheme made, published in accordance with this Act; provided that when a scheme is so varied, the provisions of this Act shall so far as may be applicable, apply to such variation and making of subsequent scheme, and the date of publication of the varied scheme shall, for the purpose of sections 44, 48, 70, 72 and 82 be

deemed to be the date of publication of scheme referred to in those sections.

#### **68. Apportionment Of Scheme Withdrawn :-**

In the event of the development scheme being withdrawn the costs of the scheme shall be borne by the Authority or be paid to the Authority by the owners concerned, in such proportion as the Government may in each case determine.

#### **69. Cost Of Scheme :-**

The cost of a development scheme shall include-

- (a) all sums payable by the Authority under the provision of this Act which are not specifically excluded from the cost of the scheme;
- (b) all sums spent or estimated to be spent by the Authority in the making and in the execution of the scheme, the estimates for works included in the scheme being made on the date the scheme is published by a public notice under section 52;
- (c) all sums payable as compensation for land reserved or allotted for any public purpose or purposes of the Authority which is solely beneficial to the owners or residents within the area of the scheme;
- (d) such portion of the sums payable as compensation for land reserved or allotted for any public purpose or purposes of the Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, as is attributable to the benefit according to the owners or residents within the area of the scheme from such reservation or allotment;
- (e) all legal expenses incurred by the Authority in the making and in the execution of the scheme;
- (f) all expenses incurred by the Authority on establishment for preparation and implementation of development scheme, which should not exceed more than 15 per cent of the total estimated cost of the scheme;
- (g) the amount incurred by the Authority as interest payable on the borrowings and loans taken by the Authority for preparation and development of schemes;
- (h) the amount by which the total of the values of the existing plots exceeds the total of the values of the plots included in the scheme, each of such plots being estimated at its market value on the date of the publication of the scheme under section 44 with all the buildings and works thereon and without reference to improvements contemplated in the scheme other than

improvements due to the alteration of the boundaries;

(i) if in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the existing plots, each of such plots being estimated in the manner provided in clause (n) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme as defined in sub-section (1).

## **70. Calculation Of Increment :-**

For the purpose of this Act, the increment shall be deemed to be the amount by which on the date of the publication of the scheme under section 44, the market value of any plot with reference to the improvements contemplated in the scheme on the assumption that the scheme has been completed would exceed on the same date the market value of the same plot estimated with reference to such improvement:

Provided that in estimating such values, the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

## **71. Contribution Towards Cost Of Scheme :-**

(1) The cost of the scheme shall be met wholly or in part by a contribution to be levied by the Authority on each plot included in the scheme calculated in proportion for the increment which is estimated to accrue in respect of such plot by the Authority:

Provided that-

(a) No such contribution shall exceed the increment estimated by the Authority to accrue in respect of each plot,

(b) Where a plot is subject to a mortgage with possession or to a lease, the Authority shall determine in what proportion the mortgagor or lessee on the one hand and the mortgagee or lessor on the other hand, shall pay such contribution.

(c) No such contribution shall be levied on a plot used, allotted or reserved, for a public purpose or purposes of the Authority, such plot being solely for the benefit of the owners of residents within the area of the scheme.

(d) The contribution levied on a plot used, allotted or reserved for a public purpose of the Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public shall be calculated in the proportion to the benefit estimated to accrue to the general public from such use, allotment

of reservation.

(2) The owner of each plot included in a scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot.

## **72. Certain Amount To Be Added To Or Deducted From Contribution Leviable From Person :-**

The amount by which the total value of reconstituted plots included in a scheme with all the buildings a/id works thereon allotted to the persons falls short of or exceeds the total value of the existing plots with all the buildings and works thereon of such person shall, as the case may be, be added to or deducted from the contribution leviable from such person, each of such plots being estimated at its market value on the date of the publication of the scheme under section 44 and without reference to improvement contemplated in the scheme other than improvements due to the alteration of its boundaries.

## **73. Transfer Of Rights From Existing To Reconstituted Plot Or Extinction Of Such Right :-**

Any right in an existing plot which, in the opinion of the Authority, is capable of being transferred wholly or in part without prejudice to the making of a development scheme to be a reconstituted plot shall be so transferred and any right in an existing plot which in the opinion of the Authority is not capable of being so transferred, shall be extinguished, provided that, an agricultural lease shall not be transferred from an existing plot to reconstituted plot without the consent of all the parties to such lease.

## **74. Compensation In Respect Of Property Or Right Injuriouly Affected By Scheme :-**

The owner of any property or right which is injuriouly affected by the making of a development scheme shall, subject to provision of section 75, if he makes a claim before the Authority within sixty days of the receipt of the notice from Authority, be entitled to obtain compensation in respect thereof from the Authority or from any person benefited or partly from the Authority and partly from such person as the Authority may in each case determine.

## **75. Exclusion Or Limitation Of Compensation In Certain Cases :-**

(1) No compensation shall be payable in respect of any property or private right of any sort which is alleged to be injuriously affected by reason of any provision contained in the development scheme, if under any other law for the time being in force applicable to the area for which such scheme is made, no compensation is payable for such injurious effect.

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provision inserted in a development scheme which with a view to securing the amenity of the area included in such scheme or any part thereof, imposes any condition and restriction in regard to any of the matters specified in clause (b) of section 42.

**76. Provision For Cases In Which Amount Payable To Owner Exceeds Amount Due From Him :-**

If the owner of an existing plot is not provided with a plot in the scheme or if the contribution to be levied from him under section 72 is less than the total amount to be deducted therefrom under any of the provisions of this Act the net amount of his less shall be payable to him by the Authority in case or in such other way as may be agreed upon by the parties.

**77. Provision For Cases In Which Value Of Developed Plots Is Less Than Amount Payable By Owner :-**

(1) If for any cause the total amount which would be due to the Authority under the provisions of this Act from the owner of a plot to be included in the scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the Authority shall direct the owner of such plot to make payment of the amount of such excess to it.

(2) If such owner fails to make such payment within the prescribed period, the Authority shall acquire the existing plot of such defaulter by paying the value of such plot estimated at its market value on the date of the publication of the scheme under section 41 without reference to improvements contemplated in the schedule and thereupon the plot included in the scheme shall vest absolutely in the Authority free from all encumbrances, but subjects to the provisions of this Act:

Provided that the payment made by the Authority on account of the value of the existing plot shall not be included in the costs of

the scheme.

#### **78. Payment By Adjustment Of Account :-**

All payment due to be made to any person by the Authority under this Act shall, as far as possible, be made by an adjustment in such persons account with the Authority in respect of the reconstituted plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

#### **79. Payment Of Net Amount Dues To Authority :-**

(1) The net amount payable under the provisions of this Act by the owner of a plot included in a scheme may at the option of the contributor, be paid in one lump sum or annual instalments not exceeding ten. If the owner elects to pay the amount by instalments, interest at the rate of 12 per cent per annum shall be charged on the net amount payable. If the owner of a plot fails to elect the option on or before the date specified in a notice issued to him in that behalf by the Authority, he shall be deemed to have elected the option of paying contribution by instalments and the interest on the contribution shall be calculated from the date specified in the notice, being the date before which he was required to make an election as aforesaid:

Provided that, where an owner elects to pay the amount in one lump sum but fails to do so, interest upto a maximum of 12 per cent per annum shall be payable by him to the Authority, from the date specified in the notice of the date of payment.

(2) Where two or more plots included in a scheme are in the same ownership, the net amount payable by such owner under the provisions of this Act shall be distributed over his several reconstituted plots in proportion to the increment which is estimated to accrue in respect of such reconstituted plot, unless the owner and the Authority agree to a different method of distribution.

#### **80. Power Of Authority To Make Agreement :-**

(1) The Authority shall be competent to make any agreement with any person, in respect of any matter which is to be provided for in the development scheme subject to the power of the Government to modify or disallow such agreement and unless it is otherwise expressly provided therein, such agreement shall take effect and

after the day on which the development scheme comes into force.

(2) Such an agreement shall not in anyway affect the determination of the makers as stated in section 55 or the rights of third parties, but it shall be binding on the parties to the agreement:

Provided that, if any agreement contains any provisions which are inconsistent with the scheme as published by the Authority under section 44, such an agreement shall be void:

Provided further that, if the agreement is modified by the Government, either party shall have the option of avoiding if it so elects.

### **81. Recovery Of Arrears :-**

Any sum due to the Authority under the provisions of this Act or any rule or any regulation made thereunder shall be a first charge on the plot on which it is due, subject to the prior payments of the land revenue, if any, due to the Government thereon and, if it is not paid on demand on the day on which it becomes due or on the day fixed by the Authority, shall be recoverable by the Authority as arrears of land revenue.

### **82. Execution Of Works In The Scheme By Authority :-**

(1) The Authority shall complete all the works provided in a scheme within the period prescribed:

Provided that, in exceptional circumstances on application by the Authority, the Government may, by an order in writing specifying these circumstances, grant to the Authority in this behalf further extension of time as it may think fit.

(2) If the Authority fails to complete the work within the prescribed period or within the period extended under sub-section (1), the Government may require the Authority to complete the works within a further period as it may consider reasonable or appoint an officer to complete such works at the cost of the Authority.

### **83. Responsibility Of The Authority :-**

(1) Subject to the provisions of this Act, the Authority shall be responsible for the formulation, co-ordination and execution of all development schemes and works relating to the development of the Coal Mining Development Area or any part thereof.

(2) The Authority shall be responsible for the preparation of a

phased programme of development essential for the general socio-economic and physical development of the Coal Mining Development Area.

(3) Notwithstanding anything contained in any other law for the time being in force, the Authority may give such directions with regard to the implementation of any development scheme as it may deem fit.

(4) The Authority shall exercise the powers of supervision as may be necessary to ensure that such development schemes are executed in the interest of the overall development of the Coal Mining Development Area and in conformity with the Development Plan.

#### **84. Power Of The Authority To Implement Schemes Of Other Agencies Including Government Departments In Case Of Default :-**

(1) Where the Authority is satisfied that any direction given by it with regard to any development scheme has not been carried out by the concerned agency including the Department of the Government or that any such agency or department is unable to fully implement any scheme undertaken by it for the development of any part of the Coal Mining Development Area, the Authority may itself undertake any such development Scheme of works and incur any expenditure necessary for the execution of such development scheme, as the case may be, and recover the cost thereof from the concerned agency or the Department.

(2) The Authority may also undertake any development scheme as may be directed by the State Government and may incur such expenditure as may be necessary for the execution of such scheme.

(3) Where any scheme or work is undertaken by the Authority under subsection (1) above, it shall be deemed to have, for the purpose of the execution and such schemes of works, all the powers which may be exercised under any law for the time being in force by the agency or the department of the Government, as the case may be, as referred to in section 82.

#### **85. Schemes Prepare Under The Previous Acts :-**

If any scheme for the Coal Mining Development Area or any part thereof has already been prepared and approved by the State Government under the provision of the Bihar Town Planning and Improvement Trust Act, 1951 (Bihar Act 35 of 1951) or the Bihar

Regional Development Authority Act, 1981 (Bihar Act 40 of 1982) or any other law for the time being in force in the State before the commencement of the Act, the Scheme already prepared by the Authority and approved by the State Government under the relevant provisions of this Act till such time the Authority modifies the schemes or prepares a fresh scheme.

## **CHAPTER 7 LEVY ASSESSMENT AND RECOVERY OF DEVELOPMENT CHARGE**

### **86. Levy Of Development Charge :-**

1[(1) Subject to the provisions of this Act and the rules under it and with previous sanction of the Government, the Authority shall, by a notification published in the Official Gazette, levy a charge (hereinafter called the Development Charge) on the carrying out of any Development or the institution or change of use of land, for which permission is required under Chapter V of this Act, the whole or any part of the Coal Mining Development Area at the rates as may be prescribed.

(2) The rates may be different for different parts of the Coal Mining Development Area and for different uses.

(3) The charge shall be leviable, not exceeding Rupees [One Thousand]<sup>2</sup> on any person who undertakes or carries out such development and institutes or changes any use.

(4) The Government may, by rules, provide for the exemption from the levy of development charge, any development, or institution, or change of any use of any land specified in the rules.

1. Substituted for Tonnage Cess vide Section 6 of (Amendment) Act, 1992 [24 of 1992].

2. Substituted for Five Hundred vide Section 7 of the (Amendment) Act, 1992 [24 of 1992].

### **87. Rates Of Development Charges :-**

(1) For the purpose of assessing the development charges, the use of land and building shall be classified under the following main categories:-

- (i) Industrial;
- (ii) Commercial;
- (iii) Residential;
- (iv) Agricultural;

- (v) Miscellaneous;
- (vi) Educational;
- (vii) Health and Medical Care; and
- (viii) Drinking Water Supply.

(2) In classifying the use of land and building under any of the categories mentioned in sub-section (1) above the predominant purpose for which such land and building are used shall be the main basis for such classification.

(3) The rates of development charge shall be determined on the proposed use of land and shall be at a rate, the maximum of which shall be fifty per cent of the cost of developed land.

### **88. Assessment Of Development Charge :-**

(1) Any person, who intends to carry out any development or to institute or change any use of any land for which permission under Chapter V is necessary whether he has applied for such permission or not, or who has commenced the carrying out of any such development or has carried out such development or instituted or changed any such use, shall apply to the Authority in the manner prescribed for the assessment of Development Charge payable in respect thereof.

(2) Authority shall, on such application being made, or if no such application is made after serving notice on the person liable for Development Charge, determine whether or not, and if so, what Development Charge, if leviable in respect of that development or use.

(3) The Technical Member shall, after giving a reasonable opportunity of being heard to the person who has made an application under sub-section (1) or who has been served with a notice under sub-section (2), make a report to the Authority.

(4) After taking into consideration the aforesaid report, the Authority shall assess the amount of Development Charge by an order provided that:-

(a) where permission under Chapter V has not been granted for carrying out the said development, the Authority may postpone the assessment of the Development Charge;

(b) where the application relates to the carrying out of any development, the Authority may refuse to assess the Development Charge payable in respect thereof, unless it is satisfied that the applicant has an interest in the land sufficient to enable him to carry out such development or that the applicant is able to obtain

such interest and that the applicant will carry out the development within such period as the Authority considers appropriate;

(c) where the applicant relates to the substitution or change of any use, the Authority may refuse to assess the amount of Development Charge in respect thereof unless it is satisfied that the use will be instituted within such period as the Authority consider appropriate.

### **89. Levy Of Tax On Use Of Land For Other Than Agricultural And Residential Purposes :-**

1[(1) The Authority shall subject to the provisions of this Act, and Rules framed thereunder levy tax, by notification published in the Official Gazette, on land-being used by any person, group of persons, company, the Central Government or the State Government, local or Corporate Body for mining, Commercial or Industrial purposes with the prior approval of the State Government:

Provided that the tax so levied shall not exceed Rupees 1.50 per square meter annually for any such land but such tax shall not be levied on land which is subject to Holding Tax.

(2) The State Government shall, out of the tax so levied and collected, determine the amount to be deposited into the consolidated Fund of the State Government from time to time.

Comments & Case Law

( A s amended by 1992 Amendment, Act)-Writ petition by petitioners [Central Coalfields Ltd. & Steel Authority of India Ltd.] seeking declaration of Section 89 of the Bihar Coal Mining Area Development Authorities Act, 1986, as amended by the Amendment Act as ultra vires-Held, it is well settled that the State Legislature can neither make law regulating and/or providing for development of coal mining area, nor can it enact a provision subjecting coal mining area to tax, royalty etc.-

Consequently Section 89 of the Bihar Coal Mining Area Development Authorities Act, 1986, as amended by the Bihar Coal Mining Area Development Authority (Amendment) Act, 1992, and the rules framed thereunder namely the Bihar Mineral Area Development Authority (Land Use Tax) Rules, 1994 have been declared ultra vires. Central Coalfields Limited & Others vs. State of Bihar, 1999(2) PLJR 788. [The Judgment of this case is based upon the ruling of the Supreme Court in State of Orissa vs. Mahanandi Coalfields Limited. AIR 1991 SC 1676:1995 Suppl(2) SCC 686]

1. New Section 89 Substituted for old Section 89 vide Section 8 of the (Amend.) Act, 1992. [24 of 1992].

**90. Charges For Water Supply :-**

(1) The Authority shall cause mains to be laid down, and water to be brought to the boundary of every colliery situated in the area of supply paying the 1[Tax] under section 89 and shall provide at least one connection and may on the request and at the cost of the owner of any such colliery provide additional connections between its main and connection pipes laid down by or for any such colliery.

(2) On the application of the owner of any premises situated in any part of the area of the Authority other than the colliery, the Authority may, subject to such rules as the Government may make in this behalf, supply-water to such premises on such conditions as may be agreed upon between the Authority and the owner of such premises.

(3) The Authority may provide the supply of water through stand pipes or any other source to any town, village or place within the area of supply-

(a) on its own notion, if it considers that such supply is necessary for the preservation of public health;

(b) on application from the citizens of such area, village or place; or

(c) on application from any local authority charged with administration of or empowered to make provision or the supply of water to such town, village or place on such conditions and in such manner as the Government may prescribe by rules made from time to time in this behalf.

(4) For water supply to its mains and pipes as mentioned under this section the Authority shall be entitled to charge-

(i) the owner of a colliery supplied at such rate not being less than Rupees [Sixteen]<sup>2</sup> per thousand gallons subject to revision by the Government from time to time, (ii) the owner of premises supplied at such rates as may be determined by the Government in this behalf, but not exceeding Rupees [Sixteen]<sup>2</sup> per thousand gallons.

1. Substituted for Tonnage Cess vide Section 6 of (Amend.) Act, 1992 [24 of 1992].

2. Substituted for "Four" vide Section 9 of the (Amend.) Act, 1992. [24 of 1992].

**90A. Declaration And Purpose Of Market Area :-**

1[The State Government may, by notification in the Official Gazette, declare any area as a Market Area where sale or

transaction of commodities takes place with the purpose to provide civic amenities, infrastructure and marketing facilities subject to the following conditions:-

(i) Market-fee shall be chargeable on sale or transaction of any commodity at a rate which may, by the State Government in the Official Gazette, be determined from time to time:

Provided that the rate so fixed shall not be more than One percentum of the sale value of the commodity.

(ii) The Authority may, with the approval of the State Government, make a list of such chargeable commodities and may add, amend or cancel any of the items of commodity specified in the said list, by notification in the Official Gazette:

Provided that no such commodity shall be included in the list of chargeable commodities under this Act on which Market-Fee is chargeable under the Bihar State Agriculture Produce Markets Act, 1960.

(iii) A person or Commercial concern engaged in the sale, transaction or trade of commodities specified in the list as mentioned in clause (ii) shall be required to obtain a licence from the Authority concerned, on payment of fee to be prescribed:

Provided that the rate of the licence fee so fixed shall not be more than Rupees Two Hundred annually.

1. New Section 90A added by Section 10 *ibid*.

**90B.** Collection Of Market Fee And Allocation Of Fund For Development :-

1[(1) The State Government shall, for the collection of market fee on sale or transaction of commodities within the market area, provide for necessary agency; and

(2) The market-fee so collected shall be deposited in the State Fund and the State Government shall make suitable allocations every year to the Authority concerned to provide for civic amenities, infrastructure and marketing facilities within its area].

1. New Section 90B added by Section 10 of the (Amend.) Act, 1992 [24 of 1992].

**91.** Order Of Assessment :-

(1)The Authority shall deliver or serve a copy of the order of

assessment on the applicant or the person liable for the development charge and/or 1[Tax].

(2) Such order of assessment, subject to the provision of section 63 shall be final and shall not be questioned in any court.

1. Substituted for Tonnage Cess vide Section 6 of (Amendment) Act, 1992 [24 of 1992].

## **92. Appeals Against Assessment :-**

(1) If any person, liable for such development charge, and/or 2[Tax] is dissatisfied with the order of assessment, he may, within such time and in such manner as may be prescribed appeal to the prescribed authority:

Provided that the assessment order shall remain in operation unless the prescribed authority so directs to stay any action by the Authority during the pendency of the appeal.

(2) On an appeal made to the prescribed Authority under sub-section (1) the prescribed authority shall, after giving reasonable opportunity of being heard to such person and the authority, pass such order as it deems fit.

## **93. Development Charge To Be A Charge On Land To Be Recoverable As Arrears Of Land Revenues :-**

(1) If any development of land is commenced or carried out or any use is instituted or changed without payment of the amount of the Development Charge assessed under the provisions of this Act, the amount of the Development Charge shall be subject to prior payment of the land revenue, if any, a first charge upon the interest of the person so liable in the land on which development has been commenced or carried out or the use has been instituted or changed and also in any other land in which such person has any interest.

(2) The Development Charge shall be recoverable as arrears of land revenue.

## **94. Contribution From The Municipal Funds :-**

Contribution shall be made from Municipal Funds to the Authority in the manner hereinafter contained:-

(i) All the Local bodies of the area notified under sub-section (2) of section 1 of the Act shall pay from their Municipal funds to the Authority on the first day of each quarter, so long as the Authority

continues to exist, a sum equivalent to one and a half percentum per quarter on the actual quarterly collection made on the basis of the annual rateable valuation determined under the Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) and the Patna Municipal Corporation Act, 1951 (Bihar Act XII of 1952) and the quantity of the said actual quarterly collection stood would be the same as on the first day of the last preceding quarter, provided that if this Act comes into force during a quarter, the amount of the first of such payment shall be at such proportion of the sum payable here under as the unexpired portion of the quarter bears to the whole quarter.

(ii) The payment prescribed by clause (i) shall be made with priority to all other payments due from the municipality except those referred to in section 67 of the Bihar and Orissa Municipal Act, 1922 (B. and O. Act VII of 1922) and the local bodies shall submit quarterly returns in prescribed form to the Authority within 30 days from the close of the quarter.

(iii) If payment prescribed by clause (i) cannot, in the opinion of the State Government, be made without increasing maximum amount authorised by sections 81, 85, 86 or 86A of the Bihar and Orissa Municipal Act, 1922 (B. and O. Act VII of 1922) and section 89 of the Patna Municipal Corporation Act, 1951, then that maximum amount may be increased to such extent as may, in the opinion of the State Government be necessary to secure the due making of such payment.

### **95. Contribution From Other Funds :-**

Contributions may be made from the Panchayat funds, agriculture market-yards and other sources such as irrigation and water tax, etc., as approved by the State Government from time to time.

## **CHAPTER 8 FINANCE ACCOUNTS AND AUDIT**

### **96. Fund Of The Authority :-**

(1) The Authority shall have and maintain its own funds to which shall be credited:-

(a) all money received by the Authority from the Government by way of grants, loans, advances, or otherwise;

(b) all Development Charges or other charges or Costs, Fees received by the Authority under this Act or rules or regulations thereunder;

- (c) the proceeds of the tonnage cess on the annual despatches of Coal and Coke from mines;
- (d) the proceeds of the sale of water to consumers;
- (e) all sums borrowed by the Authority under section 123;
- (f) all receipts in respect of any school or institution or work vested in or under the control and administration of the Authority;
- (g) contribution from such local Authority/Authorities of the area included in the Coal Mining Development Area of the Authority;
- (h) contribution from Panchayat funds, agriculture market-yards and other sources such as irrigation tax, water tax, etc., as approved by the State Government from time to time.

(2) The Authority shall receive duty on transfers of immovable property in accordance with the provisions hereinafter contained in this section-

(i) The duty imposed by the Indian Stamp Act, 1899 (Act II of 1899) as modified from time to time in its application to the State of Bihar on instruments of sale, gifts and usufructuary mortgage of immovable property situated in Coal Mining Development Area as declared under section 3 of this Act and executed on or after the date of which the provisions of this Act comes into force in such area, be increased by 5 per cent on the value of the property transferred by the instrument or (in the case of the usufructuary mortgage) on the amount secured by the instrument, set forth in the instrument;

(ii) All collections resulting from the aforesaid increase in Stamp Duty shall, after deducting incidental expenses (if any), be paid to the Authority by such time as may be directed by the State Government.

(3) All amounts received by the Authority from any other source.

(4) The funds shall be applied towards meeting:-

(a) the expenditure incurred in the performance of all functions under this Act;

(b) the expenditure for such other purposes as the Government may direct.

(5) The Authority may keep in current account of the State Bank of India or any other Nationalised Bank in this behalf, such sum of money out of its funds as may be prescribed by the rules and any money in excess of the said sum shall be invested in such manner as may be approved by the Government.

(6) The Government may, make such grants, advances and loans to the Authority as it may deem necessary for the performance of the functions under this Act, and all grants, loans and advances

shall be on such terms and conditions as the Government may determine.

### **97. Budget Of The Authority :-**

The Authority shall prepare in such form and at such time every year as may be prescribed by the rules, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure for the Authority and shall forward to the Government such number of copies thereof as may be prescribed by rules.

#### **Section 98 - Accounts and Audit**

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the Government may by rules prescribe.

(2) The Accounts of the Authority shall be subject to audit annually by the Accountant-General of the State and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Accountant-General.

(3) The Accountant-General or any person appointed by him in connection with the audit of accounts of the Authority shall have the same right, privilege and authority in connection with such audit as the Accountant-General has in connection with the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other document and papers and to inspect the office of the Authority.

(4) The accounts of the Authority as certified by the Accountant-General or any person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government.

### **98. Section 98 :-**

### **99. Annual Reports :-**

The Authority shall prepare every year a report of its activities during that year and submit the report to the Government in such form on or before such date as may be prescribed by rules.

### **100. Pension And Provident Funds :-**

(1) The Authority shall constitute for the benefit of its whole time paid members and of its officers and other employees, in such

manner and subject to such conditions as may be prescribed by rules, such pension and provident funds as it may deem fit.

(2) Where any such pension or provident funds has been constituted, the Government may declare that the provision of the Government Provident Fund Act, 1925 shall apply to such funds as if it were a Government Provident Fund.

## **CHAPTER 9 SUPPLEMENTARY IN MISCELLANEOUS PROVISIONS**

### **101. Power Of Entry :-**

(1) Any person authorised by the Authority in this behalf may enter into, across, along or upon any land or building or colliery with or without assistants or workmen for the purpose of:-

(a) constructing, maintaining, repairing, renewing, altering, enlarging and extending reservoirs, mains, pipes and other works upon or under land;

(b) taking intercepting and impounding any water flowing from any land;

(c) making any enquiry, inspection, measurement or survey or taking levels of such land or building;

(d) setting out boundaries and intended lines of parts;

(e) making such levels, boundaries and lines by placing marks and cutting trenches;

(f) examining works under construction and ascertaining the course of sewers and drains;

(g) digging or boring into the sub-soil;

(h) ascertaining whether any land is being or has been developed in contravention of any provision of this Act or rules or regulations thereunder; and

(i) doing any other act necessary for the efficient administration of this Act:

Provided that-

(i) in the case of any building used as dwelling house or upon any enclosed part or garden attached to such a building, no such entry shall be made (unless with the consent of the occupier thereof) without giving such occupier at least 24 hours notice in writing of the intention to enter;

(ii) sufficient opportunity shall, in every instance be given to enable women (if any), to withdraw from such land or building;

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose of which the entry is made, to the social and religious usages of the occupants of the land or

building entered.

(2) The power of any person authorised by the Authority under sub-section (1) shall extend to the whole of the Coal Mining Development Area.

(3) Any person, who obstructs the entry of a person empowered or authorised under this section to enter into, across, along or upon any land or building or molests such person after such entry, shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees, or with both.

### **102. Right Of User :-**

The Authority may from time to time place and maintain aqueducts, conducts and lines of mains or pipes over, under, along or across any immovable property without acquiring the same:

Provided that the Authority shall not acquire any right other than that of user in the property over, upon, along or across, which any such aqueduct, conduct or line or mains or pipes is placed.

### **103. Service Of Notices, Etc :-**

(1) All documents including notices and orders required by this Act or any rule or regulation made thereunder to be served upon or any person shall, save as otherwise provided in this Act or rule or regulation, be deemed to be duly served-

(a) where the document is to be served on a Government Department, railway, local authority, statutory authority, company, corporation, society or other body, if the document is addressed to head of the Government Department, General Manager of the Railways, Local Authority, Statutory Authority, Company, Corporation, Society or any other body at its principal branch, local or registered office, as the case may be, and is either- (i) sent by registered post to such officer, or (ii) delivered at such officer.

(b) where the person to be served is in a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on and is either-

(i) sent by registered post, or

(ii) delivered at the said place of business;

(c) In any other case, if the document is addressed to the person to be served and-

(i) is given or tendered to him, or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, or is given or rendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates, or  
(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owned" or "occupier" as the case may be of that land or building (naming or describing that land or building) without further name or description, and shall be deemed to be duly served-

(a) if the document so addressed is sent or delivered in accordance with clause (c) of sub-section (1); or

(b) if the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building.

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the Secretary to the Authority or any other officer authorised by the Authority in this behalf may, by notice in writing, require the occupier (if any), of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is minor the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) A servant is not a member of the family within the meaning of this section.

#### **104. Public Notice How To Be Made Known :-**

Every public notice given under this Act or rules or regulations thereunder shall be in writing bearing the signature of the Secretary to the Authority or such other officer who may be authorised in this behalf by the Authority and shall be widely made known in the locality to be effected thereby affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper and by such other means which the Authority thinks fit.

#### **105. Notices, Etc., To Fix Reasonable Time :-**

Where any notice, order or other document issued or made under

this Act or any rule or regulation made thereunder, requires anything to be done for the doing of which no time is fixed in this Act or rule or regulations thereunder, the notice, order or other document shall specify a maximum period within a month for doing the same.

#### **106. Authentication Of Orders And Documents Of The Authority :-**

All permissions, orders, decisions, notices and other documents of the Authority shall be authenticated by the signature of the Secretary to the Authority or such other officers as may be authorised by the Authority in this behalf.

#### **107. Mode Of Proof Of Records Of The Authority :-**

A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of the Authority if duly certified by the legal keeper thereof, or other person authorised by the Authority in this behalf, shall be received as prima facie evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent as, the original entry or document would if produced, have been admissible to prove such matters.

#### **108. Restriction On The Summoning Of Officers And Servants Of The Authority :-**

No Chairman, member or officer or servant of the Authority shall in any judicial proceeding to which the Authority is a Party, be required to produce any register or document the contents of which can be proved under the proceeding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein, unless by order of the Court made for special cause.

#### **109. Offences By Companies :-**

(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was incharge of, and was responsible for, 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 provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an 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 officers of the company, then, such Director, Manager, Secretary or other officers shall be liable to be proceeded against and punished accordingly.

Explanation-For the purpose of this section-

(a) "Company" means a 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.

**110. Penalty For Obstructing Contractor Or Removing Mark, Etc :-**

If any person-

(a) obstructs, interfere or mis-behave any person engaged or employed by the Authority or any person with whom the Authority has entered into a contract, in the performance or execution by such person of his duty or of anything such he is empowered or required to do under this Act, or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act, or

(c) maliciously, wilfully or negligently breaks, injures or opens, any lock, check valve, pipe or other works belonging to the Authority, or

(d) unlawfully obstructs the flow of flushes, draws off directs, or takes water from any water works, or

(e) tampers with electric and water meters dishonestly to prevent them from registering the quantity supplied.

(j) he shall be punishable with fine which may extend two hundred rupees or with imprisonment for a term which may extend to two months.

**111. Sanction Of Prosecution :-**

No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Authority or any officer authorised by the Authority in this behalf.

#### **112. Composition Of Offences :-**

(1) The Authority or any person authorised in this behalf by general or special order may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) When an offence has been compounded, the offender, if in custody shall be discharged and no further proceeding shall be taken against him in respect of the offence compounded.

#### **113. Magistrates Power To Impose Enhanced Penalties :-**

Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Court of a Magistrate of the first class to pass any sentence authorised by this Act in excess of its power under the said section.

#### **114. Right To Appear By Recognised Agent :-**

Every party to any proceeding before the Tribunal constituted under this Act shall be entitled to appear either in person or by his agent authorised in writing in that behalf.

#### **115. Power To Compel Attendance Of Witnesses :-**

For the purpose of this Act, any prescribed authority appointed under the provisions of this Act or an officer appointed under section 56 (1) or the Tribunal may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

#### **116. Jurisdiction Of Courts :-**

No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act.

#### **117. Fine When Realised To Be Paid To The Authority :-**

All fines realised in connection with prosecution under this Act shall be paid to the Authority.

**118. Members And Officers To Be Public Servants :-**

Every member and every officer and other employees of the Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**119. Protection Of Action Taken In Good Faith :-**

No suit, prosecution or other legal proceedings shall lie against any person for anything which is, in good faith, done or intended to be done under this Act or any rule or regulations made thereunder.

**120. Finality Of Orders :-**

Save as otherwise expressly provided in this Act; every order passed or direction issued by the Government, order passed or notice issued by the Authority under this Act shall be final and shall not be questioned in any suit or other legal proceeding.

**121. Validation Of Acts And Proceedings :-**

(1) No act done or proceeding taken under this Act shall be questioned on the ground merely of-

- (a) the existence of any vacancy in, or any defect in the constitution of, the Coal Area Development Authority; or
- (b) any person having ceased to be a member; or
- (c) any person associated with the Authority under the provisions of this Act having voted in contravention of the said section; or
- (d) the failure to serve a notice on any person where no substantial injustice has resulted from such failure; or
- (e) any commission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Authority, shall be taken to have been duly convened and to be free from all defects and irregularities.

**122. Power To Delegate :-**

The Authority may, by resolution, direct that any power exercisable by it under this Act, rules, or regulations thereunder, except the power to prepare any Development Plan or Development Scheme or to make regulations, may also be exercised by any local

authority or any officer of the Government with previous consent of Government, as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

### **123. Power Of Coal Area Development Authority To Borrow Money :-**

The Authority, may from time to time borrow at such rate of interest and for such period and upon such terms, as the Government may approve, any sum of money required for the purpose of the Development Plan or the making or execution of a Development Scheme.

### **124. Control By The Government :-**

(1) The Authority shall carry out such directions as may be issued from time to time by the Government for the efficient administration of this Act.

(2) If in, or in connection with the exercise of its powers and discharge of the functions by the Authority under this Act, any dispute arises between the Authority, the local authority or/and the Government, the decision of the Government in such disputes shall be final.

### **125. Return And Information :-**

The Authority shall furnish to the Government such report, returns and other information as the Government may from time to time require.

### **126. Effect Of Laws :-**

(1) Save as aforesaid, the provisions of this Act and, the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

(2) Notwithstanding anything contained in any such other law-

(a) When permission of development in respect of any land has been obtained under this Act, such development shall not be deemed to be unlawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has not been obtained; this shall not, however, be construed as exemption to permission being obtained as required under such other laws and of payments of such fees and charges as may be prescribed by these laws.

(b) When permission for such development has not been obtained under this Act such development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has been obtained.

**127. Power To Require The Owner Or Occupier To Execute Certain Measures :-**

(1) If the Authority is satisfied that it is necessary that measures should be taken for any of the purposes specified under this Act in the Coal Mining Development Area or any of its parts and that the necessity for such measures is distinctly referable to any act or commission in respect of his property on the part of the owner or occupier of any land or building, the Authority may by notice specifying measures to be taken require such owner or occupier at his own cost-

(i) to execute within a period to be fixed in the notice, such works which the Authority may consider necessary for carrying such measures into effect and to maintain in good repair all works so executed;

(ii) to carry on such continuous or periodical operations as the Authority may direct for carrying such measures into effect.

(2) If the Authority is satisfied that in order to prevent or abate a nuisance affecting the public health in the Coal Mining Development Area, it is necessary that any owner or occupier of land or building in the Coal Mining Development Area or any of its parts should take certain orders with any property belonging to him or in his possession or under his management the Authority may by notice require such person to take such orders at his own cost.

(3) If in any of the cases referred to in the two aforesaid subsections, the Authority is satisfied that immediate remedy as necessary, the Authority may, for reasons to be recorded by a notice specifying the measures to be taken and the estimated cost thereof (if any) declare its intention of itself executing and maintaining any such work or carrying on any such operation on taking such order at the cost of such owner or occupier.

**128. Power To Make Rules :-**

(1) The Government may, by notification in the Official Gazette, shall make rules within six months to carry out the purpose of this Act.

(2) In particular and without prejudice to generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the functions and powers of the Authority;
- (b) the term of office and conditions of service of the members of the Authority;
- (c) the qualification and disqualification for being chosen as, and for being members of the Authority;
- (d) the manner of nomination of representatives of local authorities under clause (i) of sub-section (3) of section 5;
- (e) the manner in which and the purpose for which the Authority may associate with itself any person under the provisions of this Act;

### **129. Power To Make Regulations :-**

The Authority may with previous approval of the Government, make regulations consistent with this Act and the rules made thereunder within three months to carry out the purpose of this Act and, without prejudice to the generality of this power such regulations, may provide for-

- (a) the time and place of holding and procedure to be followed in, meetings of the Authority, Consultative and Co-ordination Committee, the number of members necessary to form a quorum therein;
- (b) the powers and duties of the officers and employees of the Authority;
- (c) the salaries, allowances and conditions of service of its officers and employees;
- (d) the terms and conditions for the continuance of use of any land used otherwise than in conformity with a Development Plan;
- (e) preventing the waste, undue consumption, misuse or contamination of water and prescribing water meters; and
- (f) any other matter which has to be or may be prescribed by rules.

### **130. Laying Of Rules And Regulations Before State Legislature :-**

All rules and regulations made under this Act shall be laid, for not less than thirty days before the State Legislature in its first ensuing session as soon as may be, after they are made and shall be subject to such modifications as the Legislature may make during that session or the session immediately following.

### **131. Dissolution Of Authority :-**

(1) Where the Government is satisfied that the purpose for which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the Government unnecessary, the Government may, by notification in the Official Gazette, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification, and the Authority shall be deemed to be dissolved accordingly.

(2) From the date of declaration under sub-section (1)-

(a) all properties, funds and dues which are vested in, or realisable by, the Authority shall vest in, or be realisable by the Government;

(b) all Habilites which are enforceable against the Authority shall be enforceable by the Government; and

(c) for the purpose of realising properties, funds and dues referred to in clause (a) the functions of the Authority shall be discharged by the Government.

### **132. Repeals And Savings :-**

(1) As from the date of the constitution of Authority under this Act  
(a) The Bihar Town Planning and Improvement Trust Act, 1951 (Bihar Act 35, 1951), (b) The Bihar Restrictions of Uses of Land Act, 1948 (The Bihar Act 23 of 1948), (c) The Jharia Water Supply Act, 1914 (Bihar Act 3 of 1914), (d) The Bihar and Orissa Mining Settlements Act, 1920 (Act No. 4 of 1920), (e) The Hazaribagh Mines Board Act, 1936 (Bihar Act III of 1936), (f) The Bihar Regional Development Authority Act, 1981 (Bihar Act 40, 1982) shall cease to have effect within the area notified under section 3 of this Act.

(2) The Gram Panchayat Samities and Zila Parishads constituted under the Bihar Panchayat Samities and Zila Parishads Act, 1961 (Bihar Act VI of 1962) as modified up to 20th June, 1970 whose jurisdiction extends over the Coal Mining Development Area shall not exercise such powers and functions as have been entrusted to the Authority constituted under this Act with effect from the date to be notified by the State Government.

(3) Notwithstanding the provisions of sub-section (1)-

(a) subject to the scrutiny of the requirements of the Authority assessed by an officer appointed by the State Government, every such officer or other employees serving with Coal Mines

Development Area under the various authorities/organisations set-up under the Acts listed in sub-section (1) of this section immediately before the date of the constitution of the Authority and proposed to be retained by the Authority shall, on and from such date be deemed to have been transferred to and become an officer or other employees of the Authority with such designation as the Authority may determine and may hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held if the Authority had not been constituted, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Authority:

Provided that any service rendered by such an officer or other employees before the constitution of the Authority and proposed to be retained by the Authority shall be deemed to be service rendered under it;

(b) anything done (including any appointment, rule, bye-laws, regulation of form made, granted or issued) under various acts listed in subsections (1) and (2) of this section shall, so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been done or taken under the provisions of this Act unless and until it is superceded by anything done or any action taken under the said provisions;

(c) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the various authorities/organisations set up under the acts listed in subsections (1), (2) of this section shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Authority;

(d) all properties movable and immovable and all rights, title and interest in any property vested in the authorities/organisations set up under the acts listed in sub-sections (1), (2) of this section shall vest in the Authority and all properties in possession of such authorities/ organisations shall be deemed to be due to the Authority;

(e) all suits, prosecution, and other legal proceedings instituted or which might have been instituted by, for, or against the authorities/ organisations set up under the acts listed in sub-sections (1), (2) of this section may be continued or instituted by, for or against the Authority;

(f) all sums charged on any property under various acts listed in subsections (1), (2) of this section or the rules or regulations

framed thereunder shall continue to be charged on that property and the charge shall be enforceable by the Authority;

(g) from the date the Authority comes into existence it will have the same right as the various authorities/organisations set up under the acts listed in sub-sections (1), (2) of this section had in all lands within the area notified under section 3 of this Act which were previously held by the aforesaid various authorities/organisations on lease from the State Government for a certain period or the possession of which has been delivered to the aforesaid authorities/organisations;

(h) all lands within the area notified under section 3 of this Act held by any person on leases from the various authorities/organisations set up under the acts listed in sub-sections (1), (2) of this section under a registered deed or lease for residential purpose (and not for commercial purpose or commercial-cum-residential purpose) shall be deemed to be vested in him as perpetual lease on payment of fee to the Authority at the rate of one rupee per square metre;

(i) the Authority shall continue to enjoy the powers to realise the various sources of income in terms of levies, fees, cess, etc. otherwise empowered to be realised by various authorities/organisations set up under the acts listed under sub-sections (1), (2) of this section under their respective acts and rules and regulations framed thereunder as if the said authorities/organisations were still functioning under their respective statutes until the same are amended by the Authority from time to time.

(4) (1) The Bihar Coal Mining Area Development Authority Ordinance, 1986 (Bihar Ordinance No. 11,1986) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing or action was done or taken.