

Bihar Flying Club (Taking Over Of Management And Control) Act, 1974

14 of 1975

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An Act to provide for the taking over the management and control of the Bihar Flying Club Ltd., Patna in the public interest Be it enacted by the Legislature of the State of Bihar in the Twenty-fifth Year of the Republic of India as follows:- 1. Published in Bihar Gazette (Extraordinary), dated 17.3.75

1. Short Title :-

This Act may be called the Bihar Flying Club (Taking over of Management and Control) Act, 1974.

2. Definitions :-

In this Act, unless the context otherwise requires-

(a) "appointed day" means the day on which the provisions of this Act come into force;

- (b) "custodian" means the person appointed under Section 4 to take over the management and control of the Bihar Flying Club, Patna, with all its assets including properties movable and immovable, buildings, lands, instruments, machinery, aircrafts, stores, funds and investment, etc.; and
- (c) "prescribed" means prescribed by Rules made under this Act.

3. Taking Over Of Management Of The Club On And From The Appointed Day :-

The management and control of the Bihar Flying Club Limited, Patna, hitherto exercised by the State Government and all the assets and properties whether movable or immovable owned or possessed by the said club, including lands, building, work, workshops, stores, instruments, machinery, aircrafts, vehicles, cash balances, reserve fund, investments, documents regarding registration, certificates of air worthiness, operation log books relating to flying and maintenance of aircraft, spare parts, equipments, mobile cranes, aircrafts engines, tyres propeller blades, spray machines, hard tools, carpentry tools, furniture and other accessories shall stand transferred to and be deemed to have come into the possession and ownership of the State Government: Provided that the taking over of the Club by the State Government shall not effect the interests of the Central Government in the Club and all assets and funds built up wholly or partially through the grants of the Central Government shall continue to be applied for the promotion of the objects and purposes for which the Club was established.

4. Custodian Of The Club :-

- (1) The State Government shall as from the appointed day, appoint a person as the custodian of the Bihar Flying Club for the purpose of taking over the management and control thereof and the custodian shall carry on the management of the said club for and on behalf of the State Government.
- (2) The State Government may issue such directions to the custodian as to his powers and duties as the State Government may deem desirable and the custodian may apply to the State Government at any time for instructions as to the manner in which the custodian shall conduct the management of the Club or in relation to any matter arising in course of such management.
- (3) The custodian shall be entitled to receive such remuneration as

the State Government may fix.

5. Officer Or Employee Holding Office Or Post Under The Bihar Flying Club Before The Commencement Of The Act, Shall Be Deemed To Have Been Transferred To The State Government :-

Every officer and other employees holding any office or post under the Bihar Flying Club before the commencement of this Act shall be deemed to have been transferred to and become an Officer of the State Government with such designation as the State Government may determine and may hold office by the same terms and conditions of service as he would have held before the taking over of the management of the said Club and shall continue to do so unless and until such tenure, remuneration and terms and conditions of service are duly altered by the State Government:

Provided that any service, rendered by any such Officer or other employees before the commencement of this Ordinance in the Bihar Flying Club shall be deemed to be service rendered under the State Government.

6. The Custodian To Be Deemed Public Servant :-

The custodian appointed under Section 4 shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code (40 of 1860).

7. Protection For Action Taken In Good Faith :-

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

8. Power To Make Rules :-

(1) The State Government, may by notification in the Official Gazette make Rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may provide for-

(a) the remuneration payable to and other conditions of service of the custodian and other employees appointed by the State Government;

(b) any other matter in relation to which such Rules are required to

be or may be made.

(3) Every Rule made by the State Government under this Act shall be laid as soon as may be after it is made before each House of the State Legislature, while it is in session, for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the Rule should not be made, the Rule shall thereafter have effect only in such modified form or be of no effect as the case may be so, however, that any such modification or annulments shall be without prejudice to the validity of anything previously done under that rule.

9. Compensation, How To Be Determined :-

(1) For the properties both movable and immovable which come into possession and ownership of the State Government under Section 3, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the State Government shall appoint as arbitrator a person who is or has been or is qualified for appointment as a District and Sessions Judge;

(c) the State Government may nominate a person having expert knowledge as to the nature of the property taken possession of by the State Government to assist the arbitrator and where any such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceeding before the Arbitrator, the State Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the Arbitrator shall after hearing the dispute make an award determining, the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid, and in making the award, he shall have regard to the circumstances of each case;

(f) where there is a dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such

dispute and if the Arbitrator, finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 (10 of 1940) shall apply to arbitration under this Section.

(2) In determining the compensation the Arbitrator shall along with other circumstances consider the book value of the properties of the Club at the time of the transfer of their ownership to the State Government.

Explanation.-For the purposes of this sub-section book value of the properties shall be deemed to be the depreciated book value of all lands, buildings and other movable properties of the Club.

(3) Notwithstanding anything contained in any other law for the time being in force, no person in respect of any contract of management or other arrangement which is terminated by reason of the provisions contained in Section 3 or who ceases to hold any office shall be entitled to claim any compensation for the premature termination of the contract or management for loss of the office.

10. Penalties :-

(1) Any person, who-

(a) having in his possession or custody or under his control any property forming part of the Bihar Flying Club wrongfully with holds such property from the Custodian or any person authorised under this Act.; or

(b) wrongfully obtains possession of any such property; or

(c) willfully retains any property forming part of the Bihar Flying Club or removes or destroys it, or

(d) willfully withholds or fails to deliver any books, papers or other documents which may be in his possession or custody or under his control to the Custodian or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish information or particulars as may be required by the Custodian;

shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousands rupees or with both.

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

11. Repeal And Saving :-

(1) The Bihar Flying Club (Taking over of Management and Control) (Third) Ordinance, 1974 (Bihar Ordinance No. 118 of 1974) is hereby repealed.

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