

Bihar Industrial Area Development Authority Act, 1974

16 of 1974

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Bihar Industrial Area Development Authority Act, 1974

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An Act To provide for planned Development of Industrial Areas and Promotion of Industries and Matters Appertenant thereto. But it enacted by the Legislature of the State of Bihar in the twenty-fifth year of Republic of India as follows:-

CHAPTER 1

CHAPTER 1

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Industrial Areas Development Authority Act, 1974.

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

2. Definitions :-

In this Act unless the context otherwise requires-

(a) "amenity" include roads, water-supply, street lighting drainage, sewerage school, housing, hospital and recreation facilities and such other convenience and facility as the State Government may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Act:

(b) "building" includes any structure or creation or part of structure or creation which is intended to be used for residential, industrial, commercial, or other purpose, whether in actual use or not;

(c) "development" with its grammatical variations means the carrying out of building engineering or any other operations in, on over or under land or the making of any material change in any building or land including the provision of accommodation for carrying on industrial activities with or without accommodation for residential purposes or other activities and with all proper facilities for public works, recreation, amenity and other basic requirements for establishment of industries, and includes re-development:

(d) the word "industry" would have the same meaning as has been assigned to it under section 2, clause (3) of the Bihar State Aid to Industries Act, 1956

(e) "Development area" means any area declared to be a development area under section. 4:

(f) "Industrial area" means an area for which an Authority is constituted under section 3;

(g) "Regulation" means a regulation made under this Act by the Authority constituted under section 3

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

(I) "Prescribed" means prescribed in the rules framed by the State Government under this Act

CHAPTER 2

CHAPTER 2

3. Industrial Areas Development Authority Aims And Object

:-

(1) The State Government may at any time after commencement of this Act constitute by notification, an Authority for any area or areas for development and promotion of industry (hereinafter in this Ordinance referred to as the Authority). Explanation.-The State Government may set up one or more Authorities, or one Authority for one or more areas in the State under this Act such an Authority will be known as "(name of the area) Industrial Area Development Authority."

(2) The Authority shall be a body corporate by name aforesaid having perpetual succession and a common seal with powers to acquire, hold and dispose of properties, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) (i) Any such Authority shall consist of a Chairman, a Managing Director and five other Directors who shall be appointed by the State Government and who shall hold their office, on terms and conditions to be prescribed in this behalf, at the pleasure of the State Government.

(ii) The Chairman of the Authority shall be a Government servant not below the rank of a Commissioner or any other person who may be nominated by the Government.

(iii) The State Government may, if it is found to be expedient, appoint the same person as Chairman and Managing Director of the Authority.

(4) The Managing Director shall be a whole-time officer and the Chief executive of the Authority and shall perform, among others, the following duties under, the general guidance of the Chairman-

(a) He shall receive all the moneys on behalf of the Authority and issue receipt and maintain proper account for the same;

(b) He shall draw money from the fund of the Authority for disbursement of salaries, allowances and meeting the expenses of the Authority;

(c) He shall authenticate any order of the Authority;

(d) He shall perform any order duty that may be assigned to him by the Authority or the State Government from time to time.

4. Declaration Of Area As Development Area :-

(1) The State Government may by a notification in the official gazette declare any area adjacent to an area a "development area" for the purposes of this Act after taking into consideration any objection that may be raised in the manner prescribed in the rules;

Provided that no objections need be invited for any area already declared as "controlled area" under sub-section (1) of section 3 of the Bihar Restriction of Uses of Land Act, 1948.

(2) After an area has been notified as development area under subsection (1) of section 4 of this Act, no person or company or business house or anybody (including a department of the State Government) shall undertake or carry out any construction, modification or demolition of any structure or building within such development area without the prior approval of the Authority in accordance with the procedure laid down in the rules prescribed.

(3) Unless otherwise stipulated in the rules, the procedure regarding application for permission to build, excavate or lay out any means of access, and grant and refusal of such permission shall be according to the provisions of the Bihar Restriction of Uses of Land Act, 1948 in this behalf.

5. Establishment :-

The Authority shall have its own establishment for which it shall frame regulations with prior approval of the State Government.

CHAPTER 3

CHAPTER 3

6. General Duties And Powers Of The Authority :-

(1) subject to the provisions of this Act. the Authority shall be responsible for the planned development of the Industrial Areas (including preparation of the Master Plan of the area) and promotion of industries in the area and other amenities incidental thereto.

(2) The Authority shall be responsible for planning, development and maintenance of the Industrial Area and amenities thereto and allotment of land, execution of lease and cancellation of such allotment or lease, realization of fees rent charges and matters connected thereto. ["(2-a) In case necessary effective steps are not taken within the fixed period to establish the industry, the authority shall in such condition, cancel the allotment of allotted plot/shed and also forfeit the amount deposited in this connection. The authority shall, before cancelling the allotment allow one month tie to the allottee to put up his case. The allottee on being dissatisfied with the order of the Authority may file an appeal to the State Government within one month and the State Government shall, after due consideration dispose it of within two months from the date of receipt of the appeal.

(2-b) The authority shall, after cancellation of allotment of the plot/shed take possession of the said plot shed."

(3) The State Government may from time to time entrust the Authority with any other work that is connected with planned development, or maintenance of the Industrial Area and its amenities and matters connected thereto.

(4) The Authority shall have the powers of the Commissioner of a Municipality as specified in sections 196, 197, 198, 199, 200, 201 and 202 of Bihar and Orissa Municipal Act, 1922, for purposes of removal of encroachment on roads, houses, gullies, any land in the development area and properties of the Authority.

(5) The State Government may, by notification in the Official Gazette, vest the Authority or the Chairman or the Managing Director with powers under any other Act for planning development and maintenance of civic amenities like housing and schools and vacation of encroachment, etc. that are exercisable by any local authority or statutory body or State Agency under any law for the time in force in this regard.

(6) Where, in the opinion of the Authority, as a consequence of any development having been executed by the Authority in any development area, the value of any property in that area which has been benefited by the development has increased, the Authority may, with the prior approval of the State Government, levy upon the owners of the property or any person having interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development. Provided that no betterment charge shall be levied in respect of lands owned by the State or the Central Government.

(7) Such betterment charge shall be an amount, in respect of any property situated in a development area, equal to one-third of the amount by which the value of the property on the completion of the execution of the development scheme, estimated as if the property were clear of building exceeds the value of the property prior to such execution estimated in like manner.

(8) The Authority may in addition to the grants, loans advances or subsidies that may be received from the State Government also borrow from any source, with the prior approval of the State Government.

7. Financial Powers :-

(1) The Authority shall have and maintain its own fund to which

shall be credited-

- (a) All moneys received by the Authority from the State Government by way of grants, loans, advances or otherwise;
 - (b) All fees, rents charges, levies and fines received by the Authority under this Act;
 - (c) All moneys received by the Authority from disposal of its movable and immovable assets;
 - (d) all moneys received by the Authority by way of loan from financial and other institution and debentures floated for the execution of a scheme or schemes of the Authority duly approved by the State Government.
- (2) Unless the State Government otherwise directs, all moneys received by the Authority shall be credited to its fund which shall be kept with the State Bank of India and/or one or more of the Nationalized Banks and drawn as and when required by the Authority.

8. Budget :-

- (1) The Authority shall prepare a budget every year in respect of the financial year ensuing showing the estimated receipts and expenditures of the Authority and shall forward to the State Government such number of copies thereof as may be prescribed by Rules and the State Government may issue any directive as may be considered expedient for the purpose of this Act.
- (2) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement or accounts including a balance sheet.
- (3) The accounts of the Authority shall be subject to audit annually by the Accountant General, Bihar, and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Accountant-General, Bihar. The Accountant-General shall have all the privileges and Authority in connection with audit of the accounts of the Authority as he is entitled to in connection with audit of the Government accounts.
- (4) The accounts of the Authority as certified by the Accountant General, Bihar, or any other person appointed by him in this behalf together with the audit report shall be forwarded every year to the State Government along with an annual report.

CHAPTER 4

CHAPTER 4

9. Miscellaneous Provision :-

(1) The State Government may acquire any land required for the purpose of the Authority, which shall be deemed to be "public purpose" under the Land Acquisition Act, 1894.(2) The State Government may by a deed of lease, transfer on terms of conditions as may be decided by the State Government, to the Authority any developed or undeveloped land vested in the State of Bihar for the purpose of development or use in accordance with provisions of this Act.

(3) If any land so placed at the disposal of the Authority under subsection (2) is required at any time by the State Government, the Authority shall restore it to the State Government.

10. Section 10 :-

Every Director and every officer and employee of the Authority shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code.

11. Section 11 :-

Any money due to the Authority on account of fees, rent or charges for the disposal of land, building or other properties, movable and immovable, or by way of rents and profits, may be recovered by the Authority as areas of land revenue under the Bihar Public Demands Recovery Act, 1914.

12. Section 12 :-

(1) Any person who violates any order of the Authority in respect of removal of any structure or encroachment or uses any land or building in contravention of any regulation framed by the Authority in this behalf shall be punishable with fine which may extend up to Rs. 10,000 or simple imprisonment for a term which may extend to six months or both and in case of a continuing offence with further fine which may extend to Rs. 100 for every day after conviction.

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

(3) No Court below the rank of a Magistrate of the First Class shall try any offence under this Act.

13. Section 13 :-

Save as aforesaid the provisions of this Act and Rules and Regulations made there under shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in the State.

14. Section 14 :-

The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Ordinance and in particular provide for-

- (a) Removal of encroachments on lands belonging to the Authority;
- (b) Removal of unauthorized structures;
- (c) Demolition of buildings which may interfere with the planning or which may have been erected in contravention of the Regulations of the Authority;
- (d) the submission of reports and returns by the Authority to the State Government on matters relating to the duties, powers and responsibilities of the Authority;
- (e) the issue of directions by the State Government laying down broad principles for the fulfillment of aims and objects of the Act.

15. Section 15 :-

The Authority may, with the prior approval of the State Government, by a Resolution published in the Official Gazette, make Regulation to carry out the purposes of this Act.

16. Section 16 :-

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

17. Section 17 :-

When the State Government is satisfied that the purpose for which the Authority was established under this Act has been substantially achieved so as to render the continuance of the Authority 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 from the said date and all the properties, funds and dues realized by the Authority along with its liabilities shall devolve upon the State Government.

18. Repeal And Saving :-

- (1) The Bihar Industrial Area Development Authority Ordinance, 1974 (Bihar Ordinance no. 80, 1974) is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of

power conferred by or under the Act as if this Act were in force on the day of which such thing was done or action was taken.