

Bihar Single Window Clearance Act, 2006

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Bihar Single Window Clearance Act, 2006

AN ACT TO PROVIDE FOR SPEEDY PROCESSING CLEARANCES AND CERTIFICATES REQUIRED FOR SETTING UP OF INDUSTRIAL

UNDERTAKINGS FOR THE PROMOTION OF AN AROUND DEVELOPMENT OF THE STATE AND INDUSTRIAL DEVELOPMENT AND ALSO TO PROVIDE FOR AN INVESTOR FRIENDLY ENVIRONMENT IN THE STATE OF BIHAR AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO. Whereas, it is expedient to provide for speedy implementation of industrial and other projects in the State, by providing single point clearances to promoters and to ensure early commercial production of such projects. Be it enacted by the Legislature of the State of Bihar in the Fifty Seventh year of the Republic of India as follows:-

CHAPTER 1
PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Single Window Clearance Act, 2006. (2) It extends to the whole of the State of Bihar. (3) It shall be deemed to have come into force with immediate effect.

2. Definitions :-

Under this Act, unless the context, otherwise requires: (1) "Clearances" means grant or issue of no-objection certificate, allotments, consents, approvals, permissions, registrations, enrollments, licenses and the like, by any competent authority or authorities in connection with the setting up of an industrial undertaking in the State of Bihar and shall include all such clearances required till the industrial undertaking starts commercial production. (2) "Competent authority" means any department or the Agency of the Government Authorized Agency, Gram Panchayat, Municipality or other local body, which are entrusted with the powers and responsibilities to grant or issue clearances. (3) "District Committee" means the District Single Window Clearance Committee constituted under Section-3. (4) "State Level Committee" means State Level Committee formed under Section-4. (5) "Empowered Committee" means the Committee notified by the Government under section 5. (6) "Government" means the Government of Bihar (7) "Industrial Undertaking" means an undertaking engaged in manufacturing or processing or both or providing service or doing any other business or commercial activity as may be specified by the State Government. (8) "Nodal Agency" means the agency notified at the State level or at the District level under section 7. (9) "Notification" means a notification published in the Bihar Gazette and the word 'notified' shall be construed accordingly. (10) "Prescribed" means prescribed by rules made

under this Act. (11) "State Board" means such Empowered Committee as notified by the Government under section 5.

CHAPTER 2

CONSTITUTION, POWERS AND FUNCTIONS OF THE DISTRICT COMMITTEES, STATE COMMITTEE, EMPOWERED COMMITTEE, STATE BOARD AND NODAL AGENCIES

3. Constitution, Powers And Functions Of District Committees :-

(1) The State Government may, by notification, constitute a District Single Window Clearance Committee for each district, which shall consist of the District Collector as the Chairman and five other members for such term as may be specified in the notification. (2) The Chairman of the District Committee may invite competent Authorities, or experts who are not members of the committee, as special invitees for any meeting of the District Committee. (3) The District Committee shall exercise the following powers and perform the following functions namely:- (i) to meet at such times and places as the Chairman of the Committee may decide and shall transact business as per the procedure as may be prescribed. (ii) to receive applications for all clearances for setting up industrial units with proposed investment upto the amount notified under section 19. (iii) to review and monitor the processing of applications by the competent authorities and to forward the orders of the competent authorities to the applicant. (iv) to inform the applicant of the date on which the application was received by the competent authority and the date on which such application may be deemed to have been approved in the case of deemed approval. (v) to forward cases with remarks and relevant documents to the State Committee /State Board, in case of non-existence of State Committee for decision under section 16. (vi) the member of the District Committee shall attend the meeting convened under clause (i) personally and in case he is unable to attend the meeting, he may depute a senior level officer with a written authorization to take appropriate decision in the meeting.

4. Constitution Of State Level Committee :-

The State Government may by notification constitute a State Level committee under the Chairmanship of Industrial Development Commissioner and confer powers.

5. Constitution, Power And Functions Of Empowered Committee :-

(1) The Government may notify the State Investment Promotion Board (SIPB) as the Empowered Committee. (2) The Government may take decision regarding constitution of the State Board.

6. Powers And Functions Of The State Board :-

(1) (i) To meet at such times and places as the Chairman of the Board may decide and shall transact business as per the procedures as may be prescribed. (ii) To receive all applications for clearances for setting up industrial units with proposed investment limit notified under section-19. (iii) To inform the applicant of the date on which the application was received by the competent authority and the date on which such applications may be deemed to have been approved in the case of deemed approval. (2) The State Board shall- (i) review and monitor the disposal of applications by the District Committees, State Level Committee and competent authorities. (ii) consider and decide cases under Section 18 and cases referred under provision to section 16(3) (iii) exercise such other powers and perform such other functions as may be prescribed. (3) The powers and functions entrusted to the State Investment Promotion Board, as State Board under the provisions of this Act shall be in addition to the regular powers exercised and functions discharged by the State Investment Promotion Board. (4) The orders passed by the State Board for issuing clearances shall be final and binding on the State Level Committee, District Committees and the Competent Authorities. (5) Board will have powers to direct all concerned Department, Agency, Authority or Body to prepare policies related to them so that clearances of the projects may be given under this act. (6) Board will also have powers to review the policies prepared by the Department, Agency, Authority, Body for the development of the state and in the interest of projects and may direct for necessary correction after review of the policy (7) The decision taken by Empowered Committee shall be binding on State Level Committee, District Committee and competent authorities.

7. Appointment Of Nodal Agency :-

(1) The State Government may, by notification, appoint a nodal agency at the state level, which shall be a cell headed by Director Technical, Industry Department. (2) The State Government may notify the District Industries Center as Nodal Agency at the district level.

8. Powers And Functions Of Nodal Agency :-

(1) The Nodal Agency shall provide secretarial support to the District Committees and the State Level Committee and Empowered Committee (SIPB) as the case maybe. (2) Under the superintendence, direction and control of the respective committees, the nodal agency shall acknowledge all applications filed before the Committee and shall forward the applications to the concerned competent authority within one month. The Nodal Agency shall pursue the clearance of the application with the competent authorities.

CHAPTER 3
MISCELLANEOUS

9. Filing Of Application Forms :-

(1) All applications for clearances shall be submitted with the required fees in the prescribed manner to the appropriate committee. (2) The applications shall be forwarded by the Committee to the competent authority for processing and disposal.

10. Power To Call Additional Information :-

(1) On receipt of application under sub-section (2) of section 9, the competent authority shall have power to obtain further additional information from the applicant as required by him, while furnishing a copy of the same to the Nodal Agency. (2) The applicant shall furnish the required information to the competent authority and also to the Nodal Agency simultaneously. (3) The competent authority shall send its orders sanctioning or rejecting the application, as the case may be, to the Nodal Agency so that the same can be given to the applicant.

11. Combined Application Forms (Caf) :-

(1) It shall be competent for the Government to prescribe combined applications forms which may consist of – (a) forms under Central enactments without any change and (b) existing forms or new forms in lieu of the existing forms under state enactments.

12. Self-Certification :-

(1) Every entrepreneur shall furnish a 'self-certification' at the time of submitting application form to the Nodal Agency, undertaking in such form as may be prescribed that he shall comply with the applicable provisions of the relevant Acts and the rules made thereunder. (2) The self-certification furnished by the entrepreneur shall be accepted by the concerned Departments and authorities for the purpose of issuing and granting clearance.

13. Time Limits For Processing Of Applications :-

Notwithstanding anything contained in any State law for the time being in force- (1) The Government may lay down the procedure for processing and disposal applications. (2) the Governments may prescribe time limits for processing and disposal of applications by the competent authorities. (3) the competent authority may ask for additional information at any time before the expiry of the period stipulated for the disposal of such clearance: Provided that such request for additional information should be made only once by the competent authority. (4) After receipt of the additional information, the competent authority shall pass orders on the application before the expiry of the stipulated time from the date of receipt of such additional information.

14. List Of Deemed Approval :-

(1) While prescribing time limits under section 13, the State Government may notify the clearances in respect of which failure of the competent authority to pass final orders on the application within the stipulated time shall result in deemed approval. (2) The applicant may proceed to execute the work or take other action following the deemed approval, but not so as to contravene any of the provisions of the Acts or rules or by-laws applicable to such clearances.

15. Information Of Deemed Approval :-

(1) The appropriate committee shall inform to the applicant the date on which the application was received by the competent authority and the date on which it was deemed to have been approved. (2) Applicant may take up the project implementation or any other work during the course of Deemed Approval provided the Act, rule sub-rule in force, are not violated.

16. Review Of District Level Cases :-

Notwithstanding anything contained in any state law, for the time being in force – (1) The District Committee may, either suo-motto or on an application, examine any order passed by any competent authority, rejecting any clearance or approving it with modification and if the District Committee considers that there are valid grounds for a change in such decision, it shall forward such case to the State Level Committee/ SIPB with remarks and relevant documents for a decision. (2) The State Level Committee shall review all cases referred to it by the District Committee and pass appropriate orders. (3) State Board shall review all cases referred to it by the

State Committee and in case of non-existence of State Level Committee all cases forwarded by District Committee, and pass appropriate orders. (4) The decision taken by the State Board/State Committee shall be binding on the District Committee and the competent authorities.

17. Revision Of District Level Cases By Empowered Committee :-

Notwithstanding anything contained in any state law, for the time being in force, the Empowered Committee may, either suo motto or on a reference examine any orders passed by the State Committee and pass appropriate orders as it deems fit and such orders shall be final.

18. Review Of State/District Level Cases By Empowered Committee :-

Notwithstanding anything contained in any state law, for the time being in force, the Empowered Committee may suo motto review any order passed by State Level Committee/District Committee and pass appropriate orders and such orders shall be final.

19. Pecuniary Jurisdiction Of District Committees :-

The Government may by notification specify the investment limit upto, which the applications for clearances shall be made to the District Committees/State Level Committee/State Investment Promotion Board.

20. Exemption :-

The state Government may, by notification, exempt any clearance from any of the provisions of the Act.

21. Penalty :-

Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Nodal Agency or other department or authorities shall on conviction be punishable with fine which may extend to ten thousand rupees for the first offence and for the second or subsequent offences with fine which may extend to Twenty five thousand rupees.

22. Offences By Companies, Etc. :-

(1) Where an offence under this Act is committed by a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the

offence and shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he 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 with the consent or connivance of, or that commission of the offence is attributable to any negligence on the part of any Director, Manager, Secretary or other officer, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation: For the purposes of this section:- (a) "Company" means any 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.

23. Act To Override Other Law :-

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

24. Power To Remove Doubts Or Difficulties :-

If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make provisions or give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty.

25. Power To Give Direction :-

The State Government may, from time to time, issue to the District Committees such general or special directions of policy as they may deem necessary or expedient for the purpose of carrying out the objects of this Act and the concerned Committees shall be bound to follow and act upon such directions.

26. Saving :-

The provisions of sections 12 to 18 of this Act shall not apply to any clearances required under Central enactments.

27. Power To Make Rules :-

(1) The Government may by notification make rules for carrying out

all or any of the purposes of this Act. (2) Every rules made under this Act after publication in the official Gazette, be placed before each Houses of the State Assembly and Council in the Session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.