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## **Himachal Pradesh Factories (Control Of Dismantling) Act, 1973**

**6 of 1974**

**[05 February 1974]**

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## **Himachal Pradesh Factories (Control Of Dismantling) Act, 1973**

**6 of 1974**

**[05 February 1974]**

(Received the assent of the Governor, Himachal Pradesh, on the 5th February, 1974, and was published in R.H.P. Extra., dated the 16th February, 1974 at p. 164-167). An Act to control the dismantling of Factories in Himachal Pradesh. BE it enacted by the Legislative Assembly in the Twenty-fourth Year of the Republic of India as follows:-

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

This Act may be called the Himachal Pradesh Factories (Control of Dismantling) Act, 1973.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "to dismantle" a factory means to remove from its position the machinery or part of the machinery of the factory, whereby such removal the factory is rendered wholly or partly useless for its purposes; but does not include any temporary removal within the premises of the factory of the machinery or part of the machinery for purposes

such as adjustment, cleaning and repairs;

(b) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948, (63 of 1948), and includes a small scale industry unit with a capital investment of not more than seven lakhs and fifty thousand rupees irrespective of the number of persons employed.

Explanation.-In this clause, `Capital Investment means investment in plant and machinery only;

(c) "machinery" has the meaning assigned to that word in clause (j) of section 2 of the Factories Act, 1948 (63 of 1948);

(d) "notification" means a notification published under proper authority in the Rajpatra, Himachal Pradesh; and

(e) "State Government" means the Government of Himachal Pradesh.

### **3. Dismantling A Factory :-**

(1) No person shall, without the written permission of the State Government or of an officer authorised in this behalf by that Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine or with both.

### **4. Offences By Corporation :-**

If the person contravening any of the provisions of sub-section (1) of section 3 is a company or other corporate body every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

### **5. Powers Of Entry, Examination, Taking Evidence, Etc :-**

(1) Subject to any rules made by the State Government, any officer authorised<sup>2</sup> in this behalf by that Government may, if he has reason to believe that any person has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,-

(a) enter with such assistance (if any), being persons in the service of the State Government, as he thinks fit, any place;

(b) make such examination of the place and of any machinery, books or documents therein and take on the spot or elsewhere such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

(2) Whoever wilfully obstructs an officer authorised under subsection (1) in the exercise of any power conferred by that subsection, or fails to produce on demand any book or documents in his custody or to comply with any demand for information or knowingly or recklessly makes to such officer a statement false in any material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

## **6. Cognizance Of Offences :-**

No prosecution for any offence under this Act shall be instituted except by or with the previous sanction of the State Government or the officer authorised by the State Government for the purposes of sub-section (1) of section 3.

## **7. Bar Of Legal Proceedings :-**

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

Footnotes:

For Statement of Objects and Reasons, see R. H. P. Extra., dated 7th April 1974, p. 536 and for its authoritative Hindi text see R.H.P. Extra. dated 7-9-91, P. 1903

For such authorisation see Not. No. 9-17/73 St. dated the 22nd August, 1974.

## **8. Power To Make Rules :-**

(1) The State Government may, by notification, make rules<sup>1</sup> for carrying out the purposes of this Act.

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

(a) the procedure for the grant of the permission referred to in subsection (1) of section 3;

(b) for an appeal against refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer authorised in pursuance of that section; and

(c) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or sessions aforesaid the Assembly makes any modification in the rule or decides 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 annulment shall be without prejudice to the validity of anything previously done under that rule.

## **9. Repeal And Savings :-**

The East Punjab Factories (Control of Dismantling) Act, 1948 (20 of 1948), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) is hereby repealed:

Provided that anything done, any action taken or any proceedings commenced in exercise of the powers conferred by or under the said Act shall be deemed to have been done, taken or commenced under the corresponding provisions of this Act.

Footnotes:

1. The Rules framed vide Not. No. 9-17/73. St, dated the 18th March, 1974.