

**KARNATAKA FISHING HARBOUR TERMINALS AUTHORITY
ACT, 1986**

' of

[12th July, 1990]

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STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 16 OF 1993] Karnataka Gazette, Extraordinary, dated 4-3-1993 While giving assent to the Karnataka Fishing Harbour Terminal Authority Bill, 1986, the Government of India requested that the following amendment be made. (i) to exclude the control of any Major Port in the State from the purview of the Karnataka Fishing Harbour Terminal Authority Act, 1986 AND (ii) a representative from the Navy be included in the composition of the Harbour Terminal Authority which will be constituted under Section 4 of the Karnataka Fishing Harbour Terminal Authority Act, 1986, Hence this Bill. An Act to provide for Fishing Harbour Terminals Authority for development and conservancy of Fishing Harbour Terminals in the State of Karnataka.

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called the Karnataka Fishing Harbour Terminals Authority Act, 1986.

(2) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas.

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) "Authority" means the Karnataka Fishing Harbour Terminals Authority constituted under Section 3;

(b) "Chairman" means the Chairman of the Authority;

(c) "Fish" means and includes all aquatic animals and plants of sea and estuary;

(d) "Fishing Harbour Terminal" means any area notified as a fishing harbour terminal by the State Government but excluding the area within the limits of a major port as defined in clause (8) of Section 3 of the Ports Act, 1908 (Central Act 15 of 1908)].

CHAPTER 2

Constitution of Authority

3. Constitution of the Authority :-

(1) As soon as may be after the commencement of this Act, the State Government may, by notification, constitute an authority for the whole of the State of Karnataka to develop, conserve and administer fishing harbour terminals.

(2) The Authority shall be a body corporate by the name the Karnataka Fishing Harbour Terminals Authority having perpetual succession and a common seal with power subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract, and may by the said name sue and be sued.

(3) The Head Office of the Authority shall be at Malpe.

4. Composition of the Authority :-

The Authority shall consist of the following members namely.

(a) the Minister in charge of fisheries in the State of Karnataka shall be the Chairman;

(b) the Director of Fisheries, Karnataka, ex officio;

(c) a nominee of the Ministry of Agriculture, Government of India;

(d) the Director of Ports and Inland Water Transport, Government of Karnataka, ex officio;

(e) an Officer of the Finance Department not below the rank of Deputy Secretary as may be nominated by the State Government;

(f) the Deputy Secretary to Government, in charge of Fisheries;

(g) the Chairman, Karnataka Fisheries Development Corporation, Mangalore, ex officio;

(h) the Chairman, Dakshina Kannada District Co-operative Fish

Marketing Federation, Mangalore, ex officio;

(i) the Chairman, Uttara Kannada District Fish Marketing Federation, Karwar, ex officio;

(j) a person nominated by the State Government from among the operators of deep sea fishing vessels;

(k) a person nominated by the State Government from among the fish merchants;

(1) a representative of a fisher womens' Co-operative Society, nominated by the State Government;

(1-a) a representative of the Navy nominated by the State Government in consultation with the Central Government;]

(m) a person nominated by the State Government from among Scheduled Castes/Scheduled Tribes connected with the fishing interest;

(n) two persons nominated by the State Government connected with fishing interest;

(o) the Managing Director of the Authority shall be the Secretary of the Authority.

5. Disqualification for the membership of the Authority :-

(1) A person shall be disqualified for being nominated as, and for being a member.

(a) if he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government involves moral turpitude; or

(b) if he is of unsound mind and is so declared by a competent Court; or

(c) if he is an undischarged insolvent; or

(d) if he has been removed or dismissed from the service of the Central Government or the State Government or a Corporation owned or controlled by the Central Government or the State Government or from the membership of the Authority; or

(e) if, he has, directly or indirectly, by himself or his partner, any share or interest in any work done by the order of the Authority or in any contract or employment with or under or by or on behalf of

the Authority; or

(f) if he is employed as a legal practitioner on behalf of the Authority or accepts employment as legal practitioner against the authority.

(2) A person shall not be disqualified under clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause, by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Authority is inserted.

6. Term of office and conditions of service :-

(1) Notwithstanding anything contained in Section 7, every nominated member shall hold office during the pleasure of the State Government and their conditions of service shall be such as may be prescribed.

(2) Subject to the provisions of sub-section (1) every nominated member shall hold office for three years from the date of nomination, but he shall be eligible for renomination.

(3) Every nominated member may at any time resign his office by a letter of resignation addressed to the State Government. Provided that the resignation shall not take effect until it is accepted.

7. Removal of member :-

(1) The State Government shall remove a nominated member, if he.

(a) becomes subject to any of the disqualification specified in Section 5; or

(b) refuses to or becomes incapable of discharging his duties; or

(c) without obtaining the leave of absence from the Chairman absents himself from three consecutive Meetings of the Authority; or

(d) in the opinion of the State Government he has so abused his position as to render his continuance detrimental to the interest of the Authority.

(2) No order of removal of a nominated member under sub-section (1) shall be made unless such member has been given an opportunity of making his representation.

8. Casual Vacancies :-

(1) Any casual vacancy caused by resignation of a member or by any other reason may be filled by the State Government by nomination and the person so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

(2) No act or proceeding of the Authority shall be invalidated merely by reason of any vacancy in its membership or any defect in the constitution or re-constitution of the Authority, or any irregularity in the procedure of the Authority not affecting the merits of the case.

9. Meetings of the Authority :-

(1) The Authority shall meet at least once in three months ordinarily at the office of the Authority or at such other places as the Chairman may decide and shall, subject to the provisions of sub-sections (2), (3) and (4) observe such rules of procedure in regard to the transaction of business at its meeting as may be provided by regulations.

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

(3) If any member, being an officer of the State Government is unable to attend any meeting of the Authority, he may under intimation to the Chairman, authorise his immediate subordinate officer in writing to do so.

(4) All questions at a meeting of the Authority shall be decided by a majority of the votes of the members present and in the case of an equality of votes the Chairman or in his absence the member presiding will have a second or casting vote.

(5) Quorum for a meeting shall be seven.

10. Functions of the Authority :-

The Authority shall have the following functions, namely.

(a) to develop, conserve, regulate and control fishing harbour terminals;

(b) to maintain and supervise functions of fishing harbour terminals;

- (c) to acquire lands and purchase equipments and machineries for fishing harbour terminals;
- (d) to provide for safety measures for arrival and departure of vessels and shore installations within the fishing harbour terminals;
- (e) to arrange quick and hygienic handling of fish within the fishing harbour terminals;
- (f) to execute all works including disaster restoration work;
- (g) to prevent unauthorised use of explosive materials within the harbour terminals;
- (h) to supervise harbour terminal management;
- (i) to promote fish processing and storage facilities;
- (j) to levy and collect fees for facilities provided by the harbour terminals;
- (k) to do such other functions as are necessary for efficient discharge of functions by the fishing harbour terminals;
- (1) to collect statistics relating to fishing vessels, fish catches, boat side prices, harvest prices, cost of export; and
- (m) such other functions as may be assigned to the Authority by the State Government.

11. Managing Director and other Officers :-

- (1) The State Government shall, by notification, appoint to the Authority an officer of the rank of Joint Director of Fisheries, as the Managing Director of the Authority who shall, subject to the general superintendence and control of the Authority, exercise and discharge such powers and duties as may be prescribed or delegated to him by the Authority,
- (2) Subject to such rules as may be prescribed, the Authority may appoint such other officers and employees as it may deem necessary for the efficient discharge of its functions.
- (3) The terms and conditions of service of the officer specified in sub-section (1) and employees appointed under sub-section (2); shall be such as may be prescribed.
- (4) The State Government may, by notification, appoint an officer not below the rank of Assistant Director of Fisheries Department as

the Chief Executive officer for each fishing harbour terminal who shall be subordinate to the Managing Director of the Authority. His duties and functions shall be as may be prescribed.

CHAPTER 3 FUNDS

12. Funds of the Authority :-

(1) The Authority shall have and maintain a separate fund to which shall be credited.

(a) all moneys received by the Authority by way of loan, grant, advance or otherwise from the State Government;

(b) grants and loans received from the Central Government;

(c) loans raised by the Authority from financial agencies;

(d) the receipts by way of fees, rents and charges including fines levied;

(e) such other sums and funds received from any other source.

13. Budget of the Authority :-

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

14. Accounts and Audit :-

(1) The Authority shall maintain a true and proper account and other relevant records and, prepare an annual statement of accounts including the balance-sheet in such form as may be prescribed.

(2) The accounts of the Authority shall be subject to audit annually by the controller of State Accounts and as certified by the Controller of State Accounts together with audit report thereof, shall be forwarded annually to the State Government,

15. Annual Report :-

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

State Government shall cause the report to be laid before each House of the State Legislature.

CHAPTER 4
PENALTIES

16. Penalties :-

(1) Whoever, voluntarily or without proper authority omits any damage to lands, installations and machineries within the fishing harbour terminal shall, on conviction, be punished with imprisonment which may extend to a period of six months or with a fine which may extend to five hundred rupees or with both.

(2) Any person contravening any provision of this Act or any rule or regulation framed under this Act, for the contravention of which no penalty is provided shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

17. Abetment of offences :-

Whoever abets any offence punishable by or under this Act or attempts to commit any such offence shall be punished with the penalty provided by or under this Act for committing such offence.

18. Punishment under other laws not barred :-

Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any Act or omission made punishable by or under this Act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

19. Composition of offences :-

(1) Any officer authorised by the Authority may accept from any person who has committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act or the rules made thereunder, a sum of money not exceeding five hundred rupees, by way of composition for such offence.

(2) On payment of such sum of money, the said person in custody shall be released and no further proceeding shall be taken against him in regard to the offence so compounded.

20. Power to remove and take into custody person

committing offence in the fishing harbour terminal :-

Any officer or authority in charge of or employed in any fishing harbour terminal may remove from such area or may take into custody without a warrant and forthwith handover to a police officer incharge of the nearest police station, any person who within his view.

(a) wilfully causes any damage to any building, installation, equipment or vehicle; or

(b) without proper authority interferes with any of the activities inside the fishing harbour terminal:

Provided that every such person taken into custody shall be produced before the nearest Magistrate within a period of twenty-four hours of such custody including the time necessary for the journey from the place of arrest to the Court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of Magistrate.

CHAPTER 5

Miscellaneous

21. Members and staff of the Authority to be public servants :-

The members and the staff of the authority shall, while acting or purporting to act in pursuance of any of the provisions of this Act be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

22. Protection for acts done in good faith :-

No suit, prosecution or other legal proceedings shall lie against the State Government, the Authority or the Chairman or other members of the Authority or any officer or employee of the State Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rules made thereunder.

23. Recovery of dues as arrears of land Revenue :-

Whenever any sum is due to the Authority and the sum has not been paid within the time prescribed for such payment, it shall be recovered with interest at such rates as may be prescribed in the same manner as arrears of land revenue.

24. Offences by companies :-

(1) If the person committing an offence under this Act is 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 the commission of offences shall be deemed to be guilty of the offences 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 by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any 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.

25. Appeal to Deputy Commissioner :-

(1) Any person aggrieved by an order passed by any authority or officer under this Act or any rule made thereunder may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

Provided that the Deputy Commissioner may admit an appeal preferred after the period referred to in sub-section (1) if satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(2) The Deputy Commissioner shall dispose of the appeal in the prescribed manner and the order passed by him shall be final.

26. Revision :-

(1) The State Government may, where no appeal is preferred under Section 25, either suo motu at any time or on an application made

within the prescribed period by any person interested, call for and examine the record relating to any decision or order passed or proceedings taken by any authority or officer under this Act, for the purposes of satisfying itself as to the locality, propriety or irregularity of such decision, order or proceedings and if in any case it shall appear to it that any decision should be modified, annulled, revised or remitted for reconsideration, it may pass such order as may be deemed fit:

Provided that no orders adversely affecting any person shall be passed under this sub-section unless such person has been given an opportunity of making representation.

(2) The State Government may stay the execution of any such decision, order, or proceeding pending exercise of its powers under sub-section (1) thereof.

27. Regulations :-

The Authority may with the previous approval of the State Government after previous publication, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to discharge its functions under this Act.

28. Instructions by the State Government :-

In the discharge of its functions, the Authority shall be guided by such directions and instructions not inconsistent with this Act as may be given to it by the State Government.

29. Savings :-

Nothing in this Act shall apply to fishing beyond territorial waters.

30. Power to make rules :-

(1) The State Government may by notification and subject to the condition of previous publication make rules to carry out all or any of the purposes of this Act.

(2) Every rule made 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 thirty 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 the session or sessions immediately following both Houses agree in making any modification in the rules 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 annulment shall be without prejudice to the validity of anything previously done under that rule.