

KOLAR GOLD MINING UNDERTAKINGS (ACQUISITION) ACT, 1956

22 of 1956

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An Act to provide for the acquisition of undertakings engaged in the business of gold mining in Kolar District of the State of Mysore. Whereas, it is necessary to acquire the undertakings engaged in the business of gold mining in Kolar District in the State of Mysore for the purpose of enabling the State to carry on in the interests of the general public the business of gold mining. Be it enacted by the Mysore State Legislature in the Seventh Year of the Republic of India as follows

1. Short title :-

This Act may be called the Kolar Gold Mining Undertakings (Acquisition) Act, 1956.

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) "Companies" means the Mysore Gold Mining Company (KGF) Limited the Champion Reef Gold Mines of India (KGF)Limited, the Nundydroog Mines (KGF) Limited and the Kolar Mines Power Station (KGF) Private Limited and 'Company' means any of the companies aforesaid;

(b) "Government" means the State Government;

(c) "Vesting date" means the date notified under sub-section (1) of Section 3.

3. Check It :-

Transfer of assets and liabilities of the companies to the State.(1) On such date as the Government may, by notification in the Mysore Gazette, specify, such date being not later than the 30th day of November, 1956, the undertakings of the companies shall stand transferred to and shall vest in the State.

(2) The undertakings of the Companies shall be deemed to include all assets, rights, powers, authorities and privileges and all property, moveable and immoveable, including lands, mines, works, wor' shops, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined ore, ore in process, gold in process or in stock or in transit, gold in bank or otherwise, cash balances, cash on hand, reserve fund, investments and book debts and all other rights and interests arising out of any such property as were immediately before the vesting date in the ownership, possession, power or control, of any one or more of the Companies in relation to the undertakings, and all books of account, registers, maps, plans, sections, drawings, assay sheets, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities for the payment of any taxes and other public dues and other liabilities and obligations of the Companies in relation to their undertakings which are subsisting on the vesting date.

(3) All property vesting in the State under sub-section (1) shall, by force of such vesting, be freed and discharged from all trusts obligations, mortgages, charges, liens and other encumbrances

affecting them, and any judgment, injunction or any other order of Court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(4) Unless otherwise expressly provided by or under this Act, all contracts and agreements subsisting or having effect immediately before the vesting date and to which any of the Companies is a party or which are in favour of any such Company shall, insofar as it relates to the undertaking of the Company, be of as full force and effect against or in favour of Government and may be enforced or acted upon as fully and effectually as if instead of the Company the Government had been named therein or had been a party thereto.

(5) Subject to the other provisions contained in this Act, any suit appeal or other legal proceeding of whatever nature pending by or against any Company immediately before the vesting date insofar as it relates to the undertaking of the Company, may as from that date be continued or enforced by or against the Government as it may have been continued or enforced by or against the Company if this Act had not been passed, and shall cease to be enforceable by or against the Company.

(6) Notwithstanding anything contained in this section.

(a) the shares held A the Kolar Mines Power Station (KGF) Private Limited by the other three companies shall not be deemed to have been vested in the State;

(b) any contract or agreement between any of the Companies and any person providing for the management of the affairs of the Companies by such person shall, as from the vesting date, cease to have effect in relation to the undertakings which have vested in the State.

4. Lease, etc., granted to the Companies to cease to be valid :-

Every lease, licence or other agreement granted to or entered into with any of the Companies for the purpose of searching for or winning gold in or from any area in the State shall on the vesting date stand extinguished.

5. Transfer of service of employees of the Companies to the State :-

(1) Every officer or other employee of any of the Companies

(excepting any person holding office as a director, managing agent, adviser, solicitor consultant or auditor) in the employment of the Company immediately before the vesting date shall, insofar as such officer or other employee is employed in connection with the undertaking of the Company which has vested in the State, become as from the vesting date an officer or other employee, as the case may be, of the Government and shall hold office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same on the vesting date if this Act had not been passed, and shall continue to do so unless and until his employment under the Government is terminated or until his remuneration, terms or conditions are duly altered by the Government.

(2) Notwithstanding anything contained in sub-section (1), or in any contract of service, the Government may, for the purpose of rationalising the pay scales of the officers and other employees of the Companies, alter the terms of service of the officers and other employees as to their remuneration in such manner as it thinks fit, and if the alteration is not acceptable to any officer or other employee, the Government may terminate his employment on giving him compensation equivalent to three months' remuneration, unless the contract of service with such employee provides for a shorter notice of termination.

Explanation. The compensation payable to an officer or other employee under this sub-section shall be in addition to and shall not affect any pension, gratuity provident fund money or any other benefit to which the officer or other employee may be entitled under his contract of service.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act XIV of 1947) or any other law for the time being in force, the transfer of service of any officer or other employee of any of the Companies to the Government shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any Court, tribunal or other authority.

6. Provident and pension funds :-

(1) Where any Company whose undertaking has vested in the State under this Act has established a provident or pension fund or

any other life fund for the benefit of its employees and constituted a trust in respect thereof the money standing to the credit of any such fund on the vesting date together with any other assets belonging to the fund and all liabilities of the fund shall stand transferred to and vested in the State on the vesting date free from any such trust.

(2) Where all moneys and assets belonging to any such trust as is referred to in sub-section (1) are transferred to and vested in the State under this section the trustees of such trust shall, as from the vesting date, be discharged from the trust except as respects things done or omitted to be done before the vesting date.

7. Right of Government to disclaim certain agreements :-

Where it appears to the Government that the making of any agreement under which any of the Companies has or will have or may have liabilities was not reasonably necessary for the purposes of the activities of the Company or has not been entered into in good faith the Government may within one year from the vesting date apply to the Court of the District Judge, Bangalore Division, for relief from such agreement and if the Court is satisfied, after making such enquiry into the matter as it thinks fit and after giving an opportunity to all the parties interested in the matter to be heard, that the agreement was not reasonably necessary for the purposes of the activities of the Company or had not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

8. Right to relief in certain other cases :-

(1) This section shall apply where any Company has after the 18th day of June, 1955 and before the vesting date,

(a) made any payment to any person without consideration or for an inadequate consideration;

(b) sold or disposed of any of its properties or rights without consideration or for an inadequate consideration;

(c) acquired any property or rights for an excessive consideration;

(d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the Company;

(e) entered into any other transaction of such an onerous nature as

to cause loss to or impose a liability on the Company exceeding any benefit accruing to the Company;

(f) sold or otherwise transferred any equipment, machinery or other property of book value exceeding rupees ten thousand; and the payment, sale, disposal, acquisition, agreement or variation thereof, or other transaction or transfer, was not reasonably necessary for the purposes of the Company or was made with unreasonable lack of prudence on the part of the Company regard being had in either case to the circumstances at the time.

(2) If in the opinion of the Government any transaction is a transaction to which this section applies but there is a dispute between the Government and the Company concerned as to whether it is such a transaction the dispute shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the Government and the Company or failing such agreement by the Minister for Finance to the Government of India, and the decision of the arbitrator as to whether this section applies to the transaction and as to the relief to which the Government is entitled shall be binding on the parties.

9. Compensation for acquisition of undertakings :-

Every Company whose undertaking has vested in the State under this Act shall with respect to such vesting and with respect to the extinguishment of rights under Section 4, be entitled to compensation which shall be.

10. Mode of giving compensation :-

Three-fourths of the amount of compensation payable to each of the Companies under Section 9 shall be paid to them in cash on the vesting date and the remainder shall be paid to them in cash within three months from the vesting date: Provided that if within a period of three months from the vesting date any dispute is referred to arbitration under sub-section (2) of Section 8, it shall be lawful for the Government to retain the whole or any part of such remainder as may be necessary to satisfy any claim which may arise in relation to such dispute, and the amount so withheld shall be disposed of in conformity with the decision of the arbitrator.

11. Duty to deliver possession of property acquired and documents relating thereto :-

(1) Where any property has vested in the State under Section 3, every person in whose possession or custody, or under whose

control the property may be shall deliver up the property to the Government forthwith and until it is so delivered, such person shall, as from the vesting date, be deemed to be in possession, custody or control of the property on behalf of the Government.

(2) Any person who on the vesting date, has in his possession or custody or under his control any document which has vested in the State under this Act shall be liable to account for such document to the Government and shall deliver it up to the Government or to such person as the Government may direct.

(3) Without prejudice to the other provisions contained in this section it shall be lawful for the Government to take all necessary steps for securing possession of all properties and documents which have vested in the State under Sections.

12. Duty to furnish particulars :-

(1) The Government may, at any time after the commencement of this Act, require any of the Companies to furnish such information in relation to its undertaking as the Government may by general or special order, require.

(2) Notwithstanding anything contained in sub-section (1), where the undertaking of a Company has vested in the State under this Act, the Company shall within thirty days from the vesting date or within such further period as the Government may allow in any case, furnish to the Government a complete inventory of all the assets, including particulars of book debts and investments and belongings, all liabilities and obligations of the Company subsisting immediately before the vesting date and also of all agreements entered into by the Company and in force on the vesting date including agreements whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the Company under which, by virtue of this Act, the Government has or will have or may have liabilities, except such agreements as the Government may exclude from the operation of this section; and for this purpose the Government shall wherever necessary afford the Company all reasonable facilities.

13. Power of entry :-

Any officer or servant of the Government authorised by the Government in this behalf by general or special order, may, at any time after the commencement of this Act, after giving the Company

concerned reasonable notice, enter any mine or upon any land or premises in the possession of the Company and make any survey, examination or investigation, preliminary or incidental to the purposes of this Act and may for the purpose of the survey, examination or investigation require the Company to deliver such statements or furnish such particulars as may be required and to afford all reasonable assistance or facility for the purpose.

14. Penalties :-

(1) Any person who.

(a) having any property of any Company in his possession wrongfully withholds it from the Government or wilfully applies it to purposes other than those expressed in or authorised by this Act; or

(b) wilfully withholds or fails to furnish to the Government as required by Section 11 any document which may be in his possession; or

(c) wilfully fails to furnish any particulars required under Section 12; or

(d) offers any obstruction or wilfully fails to afford reasonable assistance or facility to any officer or servant acting under Section 13; or

(e) wrongfully obtains possession of any property of any Company which has vested in the State under this Act; or

(f) when required to furnish any information or statement furnishes any information or statement which he knows to be false or does not believe to be true; shall be punishable with imprisonment for a term which may extend to two years or with a fine which may extend to five thousand rupees or with both and in the case of a continuing offence with an additional fine which may extend to five hundred rupees for every day after the first day during which the offence continues.

(2) Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure 1898 (Central Act V of 1898), it shall be lawful for any Magistrate of the first class specially empowered by the Government in this behalf, to impose a sentence of fine exceeding two thousand rupees when awarding punishment under sub-section (1).

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

15. Protection of action taken under the Act :-

No suit, prosecution or other legal proceeding shall lie against the Government or any officer or servant of the Government, or any person acting under the direction of the Government or an officer or servant of the Government, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

16. Power to make rules :-

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

(2) All rules made under this section shall be laid before both Houses of the State Legislature as soon as may be after they are made.