

**Madhya Pradesh Bhumigat Pipeline, Cable Evam Duct
(Bhumi Ki Upyokta Ke Adhikaron Ka Arjan) Adhiniyam,
2012**

5 of 2012

[09 January 2013]

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An Act to provide for the acquisition of right of user in land for laying underground pipeline, cable and duct for carrying of water, gas, sewage, industrial waste and transmission of electricity and fibre optics and for the matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Sixty-third Year of the Republic of India as follows:--

* Published in M.P. Rajpatra (Asadharan) dated 9-1-2013 Pages 24(7-11).

1. Short title extent and commencement :-

(1) This Act may be called the Madhya Pradesh Bhumigat Pipeline, Cable Evam Duct (Bhumi Ki Upyokta KeAdhikaron Ka Arjan) Adhiniyam, 2012.

(2) It extends to the whole of the State of Madhya Pradesh but nothing contained in this Act shall apply to areas of reserved or protected forest under the Indian Forest Act, 1927 (XVI of 1927).

(3) It shall come into force on the date of its publication in the Madhya Pradesh Gazette.

2. Definitions :-

In this Act, unless the context otherwise requires,--

(a) "competent authority" means any person or authority authorised by the State Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act;

(b) "corporation" means any body corporate established under any Central or State Act, or a company formed and registered under the Companies Act, 1956 (No. 1 of 1956);

(c) "land" means a portion of earths surface;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "right of user in land" means right of user in land for laying underground pipeline, cable and duct for carrying of water, gas,

sewage; industrial waste and transmission of electricity and fibre optics and its repairing, maintaining, examining, altering and removing;

(f) "underground pipeline, cable and duct" means a pipeline, cable and duct laid below the surface of the land and subsequently covered.

3. Publication of notification for acquisition of right of user :-

(1) Whenever it appears to the State Government it is necessary in the public interest that for the carrying of water, gas, sewage, industrial waste and transmission of electricity and fibre optics from one locality to another locality and works connected therewith, pipeline, cables and duct may be laid by the State Government or a Corporation and that for the purpose of laying such pipeline, cable and duct it is necessary to acquire the right of user in any land under which such pipeline, cable and duct may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user therein.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published on the notice board of the office of the Collector, the competent authority, the Tehsildar, the concerned local body and places of usual public gathering, and in two daily newspapers circulating in that locality of which atleast one shall be in Hindi.

(4) Any person interested in the land may, within thirty days from the date of the notification under sub-section (1), object to the laying of the pipeline, cable and duct under the land.

(5) Every objection under sub-section (4) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as such authority thinks necessary, by order, either allow or disallow the objections.

(6) Any order made by the competent authority under sub-section (5) shall be final.

4. Declaration of acquisition of right of user :-

(1) Where no objections under sub-section (4) of Section 3 have been made to the competent authority within the period specified therein or where the competent authority has passed final order thereafter the competent authority shall, by notification in the Official Gazette, declare that the right of user in the land for laying the pipeline, cable and duct should be acquired.

(2) On publication of the declaration under sub-section (1), the right of user in the land specified therein shall vest absolutely in the State Government or the Corporation, as the case may be, free from all encumbrances.

(3) Notwithstanding anything contained in sub-section (2), the State Government may, on such terms and conditions as it may think fit, direct, by order in writing, that the right of user in the land for laying the pipelines, cable and duct shall, instead of vesting in the State Government, vest in the Corporation proposing to lay the pipeline, cable and duct subject to the terms and conditions so imposed, free from all encumbrances.

5. Power to enter, survey etc. in the land :-

On publication of the declaration under sub-section (1) of Section 4 it shall be lawful for any person authorised by the State

Government or the Corporation and his servants and workmen,--

(a) to enter upon and survey and take levels of any land specified in the notification;

(b) to dig or bore into the sub-soil;

(c) to set out the intended line of work;

(d) to mark such levels, boundaries and line by placing marks and cutting trenches;

(e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop or other growth or fencing; and

(f) to do all other acts necessary to ascertain whether pipeline, cable and duct can be laid under the land:

Provided that while exercising any power under this section, such person or any servant of such person shall cause as little damage or injury as possible to such land.

6. State Government or Corporation to lay pipeline, cable and duct :-

(1) Where the right of user in any land has vested in the State Government or Corporation under Section 4,--

(i) it shall be lawful for any person authorised by the State Government or Corporation, as the case may be, and his servants to enter upon the land and lay pipeline, cable and duct or to do any other act necessary for laying of pipelines, cable and duct:

Provided that no pipeline, cable and duct shall be laid under any land on which, immediately before the date of the notification under sub-section (1) of Section 3, building has been constructed including land appurtenant to it;

(ii) such land shall be used only for laying underground pipeline, cable and duct and maintaining, examining, repairing, altering or removing any such underground pipeline, cable and duct or for along any other act necessary for any of the aforesaid purposes or for the utilization of such underground pipeline, cable and duct.

(2) If any dispute arises with regards to any matter referred to in the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

7. Restriction regarding the use of land :-

(1) The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of Section 4, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-section (1) of Section 3:

Provided that, such owner or occupier shall not, after the declaration under sub-section (1) of Section 4,--

(i) construct any building or any other structure;

(ii) construct or excavate any tank, well, reservoir or dam; or

(iii) plant any tree. on that land.

(2) The owner or occupier of the land shall not do any act which will or is likely to cause any damage in any manner whatsoever to the under ground pipeline, cable and duct.

8. Compensation :-

(1) Where in the exercise of the powers conferred by Section 5,

Section 6 or Section 9, any damage, loss or injury is sustained to any person interested in the land, the State Government or the Corporation, shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance. While determining such compensation, he shall have due regard to the damage or loss sustained by reason of--

(i) the removal of trees or standing crops, if any, on the land;

(ii) the temporary severance of the land under which the underground pipeline, cable and duct has been laid from other lands belonging to, or in the occupation of such person; or

(iii) any injury, to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner.

(2) Where the right of user of any land has vested in the State Government or the Corporation, the State Government or the Corporation, as the case may be, shall be liable to pay, in addition to the compensation under sub-section (1), if any, compensation calculated at prescribed percentage of the market value of that land on the date of publication of the declaration under sub-section (1) of Section 4.

Explanation.--For the purpose of this sub-section "market value" means the value of land assessed according to guidelines issued by the Collector under the Madhya Pradesh Bazar Mulya Margdarshak ShiddantonKa Banaya Jana Tatha Unka Punirikshan Niyam, 2000 made under the Indian Stamp Act, 1899 (No. 2 of 1899).

9. Power to enter land for inspection, laying, maintaining etc. of underground pipeline, cable and duct :-

After acquiring the right of user for laying, maintaining, examining, repairing, altering removing any underground pipeline, cable and duct or measurement for any of the aforesaid purposes, or for carrying out any inspection, any person authorised in this behalf by the State Government or the Corporation, may, after giving

reasonable notice to the competent authority and occupier of the land, enter therein with such workmen and assistants as may be necessary:

Provided that where an emergency of threat to life and property exists, no such notice shall be necessary.

10. Compensation for subsequent repair or maintenance :-

After laying of underground pipelines, cable and duct whenever it is necessary for the State Government or the Corporation or their Authorised Officers to re-enter the site for repair or maintenance of the pipeline, cable and duct they shall be liable to pay such compensation to the owner or occupier due to loss caused to the standing crops etc. which may be determined by the competent authority.

11. Deposit and payment of compensation :-

(1) The amount of compensation determined under Sections 8 and 10 shall be deposited by the State Government or the Corporation as the case may be, with the competent authority within thirty days and in such manner as may be prescribed.

(2) If the amount of compensation is not deposited within thirty days, the State Government or the Corporation, as the case may be, shall be liable to pay interest thereon at the rate as may be prescribed from the date on which the compensation had to be deposited till the date of the actual deposit.

(3) As soon as may be after the compensation has been deposited under sub-section (1), the competent authority shall, on behalf of the State Government or the Corporation, as the case may be, pay the compensation to the persons entitled thereto.

(4) If any dispute arises to the apportionment of the compensation or additional compensation or any part thereof, the competent authority shall refer the dispute to the District Judge having jurisdiction and the decision of the District Judge thereon shall be final.

12. Period within which compensation shall be made :-

The competent authority shall pay compensation under Section 8 within a period of two years from the date of the publication of the notification under Section 3 and if no compensation is made within the said period, the entire proceeding for the acquisition of the right of user in land shall lapse.

Explanation.--In computing the period of two years referred to in this section, the period during which any action or proceeding in pursuance of the said declaration is stayed by an order of a court shall be excluded.

13. Special powers in case of urgency :-

(1) In case of urgency, to be determined by the State Government, the competent authority, though no such award has been made under Section 8, may, on the expiration of fifteen days from the publication of the notification mentioned in sub-section (1) of Section 3, proceed for acquisition of right of user in land needed for laying of under ground pipeline, cable and duct:

Provided that the competent authority shall not acquire any right of user under this sub-section without giving to the occupier thereof atleast forty eight hours notice of its intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such land without unnecessary inconvenience.

(2) In the case of any land to which in the opinion of the State Government the provision of sub-section (1) are applicable, the State Government may direct that the provisions of sub-section (4), (5) and (6) of Section 3, shall not apply and if it so directs, a declaration may be made under Section 4 in respect of the land at any time after the date of the publication of the notification under Section 3.

(3) In every case under sub-section (1), the competent authority shall at the time of taking possession of such land in which the right of user in land is acquired, offer to the persons affected compensation for the standing crops and trees (if any) on such land

and for any other damage caused by such sudden dispossession and in case such offer is not accepted, the value of such crops and trees and the amount of such other damages shall be allowed for in awarding compensation for the land under the relevant provisions.

(4) Before taking possession of such land in which the right of user in land is acquired under sub-section (1) the competent authority shall, without prejudice to the provision of sub-section (3), tender payment of eighty per centum of the compensation for such land as estimated by the competent authority to the person interested and entitled thereto.

(5) The amount paid or deposited under sub-section (4), shall be taken into account for determining the amount of compensation required to be tendered under Section 8 and where the amount so paid or deposited exceeds the compensation awarded by the competent authority under Section 8, the excess may, unless refunded within three months from the date of competent authority's award, be recovered as an arrear of land revenue.

14. Competent Authority to have certain powers of Civil Court :-

The competent authority shall have for the purpose of this Act, all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (No. 5 of 1908) in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commission for examination of witnesses.

15. Protection of action taken in good faith :-

No, suit, prosecution or other legal proceeding shall be against any person for anything which is done or intended to be done in good faith in pursuance of this Act or any rule or notification made or issued thereunder.

16. Penalty :-

Whoever willfully obstructs any person in doing any of the acts authorised under Section 5, Section 6 or Section 9 or willfully fills up, destroys, damages or displaces any trench or mark made under Section 5, or willfully removes, damages or destroys the underground pipeline, cable and duct laid under Section 6 or willfully does any act prohibited under Section 7 shall be punishable with simple imprisonment which may extend to one month or with fine not exceeding rupees five thousand or with both.

17. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid on the table of the Vidhan Sabha and shall be subject to such modification as the Vidhan Sabha may make.

18. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government, may, by an order published in the Official Gazette, make such provision or give such directions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

19. Repeal and saving :-

(1) The Madhya Pradesh Bhumigat Pipeline, Cable Evam Duct (Bhumi Ki Upyokta Ke Adhikaron Ka Arjan) Adhyadesh, 2012 (No. 7 of 2012) is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.