

**Maharashtra State Enterprises (Restructuring And Other
Special Provisions) Act, 2000**

18 of 2001

[16 August 2001]

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Amended by Mah. 18 of 2006

PREAMBLE

A n Act to make special provisions in the public interest for constitution of the Maharashtra Board for Restructuring of State Enterprises with power to determine and recommend timely measures to be taken by the Government of Maharashtra for restructuring, amalgamation, merger, closure, etc., and for determining and recommending measures for disinvestment of the equity capital of the Government in such Enterprises and for matters connected therewith or incidental thereto.

WHEREAS, the Directive Principles of State Policy contained in Part IV of the Constitution, which are the guiding principles to be followed in the governance of every State, embody the concept of a Welfare State, and whereas the Supreme Court of India has, in several of its judgements, held that the said principles supplement the fundamental rights in achieving a Welfare State;

AND WHEREAS, Maharashtra is a Welfare State and also an industrially and commercially advanced State;

AND WHEREAS, as a Welfare State it has always been the endeavour of the Government of Maharashtra that all assets and resources of the State are so utilised as to bring the maximum returns for the welfare and prosperity of the people of the entire State;

AND WHEREAS, it has also been the endeavour of the Government to ensure that there is overall balanced social and economic development and progress of the whole State and the wealth and prosperity of the State are shared equitably by the people of the State;

AND WHEREAS, it has been noticed by the Government that in spite of several measures taken in the past for this purpose, the operational and financial viability of several State Enterprises, established over the years for assisting the achievement of the objectives of the Welfare State, has deteriorated progressively, thereby not only straining the resources of the State but also adversely affecting the objectives of these State Enterprises;

AND WHEREAS, the State Government being concerned to ensure that these State Enterprises which have been set up for the development of infrastructure in the State and for facilitating the availability of goods and services to promote social and economic development in the State, continue to play an effective role and remain financially viable;

AND WHEREAS, therefore, necessity had arisen of immediate intervention by the Government by way of making available the services of an expert body to provide mandatory advice and assistance to the Government as well as to such State Enterprises with a view to enabling the latter to observe strict financial discipline and revive or to reorganise and restructure themselves to become financially viable and operationally sound;

AND WHEREAS, for the purposes aforesaid, it was considered expedient to make special provisions;

AND WHEREAS, both Houses of the State Legislature were not in session;

AND WHEREAS, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for the purposes aforesaid; and, therefore, promulgated the Maharashtra State Enterprises (Restructuring and Other Special Provisions) Ordinance, 2000, on the 18th November 2000.

AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Fifty-first Year of the Republic of India as follows:--

1 For Statement of Objects and Reasons, See Maharashtra Government Gazette, Part V, Extraordinary, pp. 615-634, dated 30th November 2000.

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Maharashtra State Enterprises (Restructuring and Other Special provisions) Act, 2000.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 18th November 2000.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,--

(a) "Assisting Agency" means any State Enterprise, Private Sector Agency or any other person or body of persons appointed by the Board as its agency to assist in an inquiry or preparation of a scheme, as may be specified by general or special order by the Board;

(b) "Board" means the "Maharashtra Board for Restructuring of State Enterprises" established under section 3 of this Act;

(c) "Chairperson" means the Chairperson of the Board;

(d) "Department" means any Department of the Government of Maharashtra;

(e) "Government" means the Government of Maharashtra;

(f) "High Court" means the High Court of Bombay;

(g) "Management" means the Board of Directors, Governing Body, Managing Committee or the Board of Authority of any State Enterprise, responsible for the management of the affairs of the said Enterprise;

(h) "Member" means a member of the Board and includes the Chairperson thereof;

(i) "Number or Days" would be all days as per the calendar and include all holidays;

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

(k) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934(2 of 1934);

(l) "Referred Enterprise" means any State Enterprise in respect of which a reference has been made by the Government to the Board and shall remain as such Referred Enterprise till completion of the sanctioned scheme to the satisfaction of the Board or until discharged by the Board;

(m) "Recognised Labour Union Officers Association" means any union or association of the employees or officers of the State Enterprise which is recognized under the provisions of the relevant Acts;

(n) "Schedule" means a Schedule appended to this Act;

(o) "Scheduled Bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934(2 of 1934);

(p) "State" means the State of Maharashtra;

(q) "State Enterprise" means any entity, including any subsidiary entity or such an entity, whether or not incorporated under the Companies Act, 1956 (I of 1956); or registered under the Societies Registration Act, 1860 (21 of 1860);

the Maharashtra Co-operative Societies Act, 1960 or the Bombay Public Trusts Act, 1950 (Bom. XXIX of 1950) or an Enterprise formed under any State enactment or any other law for the time being in force, in which the Government holds 50% or more as paid-up equity or preference capital or has substantial financial interest and which is included in Schedule I of this Act.

(2) Words and expressions used but not defined in this Act shall have the meanings, if any, assigned to them in the Companies Act, 1956,(I of 1956); the Industries (Development and Regulation) Act, 1951 (65 of 1951); the Maharashtra Co-operative Societies Act, 1960,(Mah. XXIV of 1961); the Bombay Public Trusts Act, 1950(Bom. XXIX of 1950); and such other State Acts and Statutes under which the Government has incorporated various State Enterprises as listed in Schedule I of this Act.

(3) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a

reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER 2 Maharashtra Board For Restructuring Of State Enterprises

3. Establishment of Board and related matter :-

(1) The Government shall, immediately after the date of coming into force of this Act but not later than thirty days thereof, establish, by notification in the Official Gazette, a Board to be known as the Maharashtra Board for Restructuring of State Enterprises.

(2) (a) The Board shall exercise the jurisdiction and powers and discharge the duties and functions as conferred on or assigned to the Board by or under this Act.

(b) The Board shall consist of a Chairperson and two other Members. The Government shall appoint the Chairperson. The other two Members of the Board shall also be appointed by the Government after prior consultation with the Chairperson. The Chairperson may request the Government to appoint additional Members for a specified period of time (not exceeding the tenure of three years) to set up an additional Bench of the Board if the work load so warrants.

(c) The Chairperson and Members of the Board shall be persons of ability, integrity and standing who have professional experience, in the public or private sector, of not less than fifteen years and have special knowledge of administration, banking, management, finance, accountancy, law, labour matters, company affairs or any other field, the professional experience in or special knowledge of which would, in the opinion of the Government, be useful to the Board.

4. Term of office, conditions of service, etc., of Chairperson and other Members :-

(1) Before any person is appointed as the Chairperson or a Member of the Board, the Government shall satisfy itself that the person has no such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member:

Provided that, no person shall hold office as the Chairperson or Member after he has attained the age of sixty five years.

(2) Notwithstanding anything contained in sub-section (1), a

Member may,--

(a) by writing under his hand and addressed to the State Government resign his office at any time; or

(b) be removed from his office in accordance with the provisions of section 5.

(3) A vacancy, caused by the resignation or removal of the Chairperson or any other Member under sub-section (2) or otherwise shall be filled in by the Government by fresh appointment.

(4) In the event of the occurrence of a vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, such Member as the State Government may, by notification, authorise in this behalf, shall act as the Chairperson till the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(5) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, such a member of the Board; as the Chairperson may authorise in writing in this behalf, shall discharge the functions of the Chairperson till the date on which the Chairperson resumes his duties.

(6) The government shall, by order, determine the professional fees and allowances payable to and the other terms and conditions of service of the Chairperson and other Members:

Provided that, neither the professional fees nor the allowances nor other terms and conditions of service of the Chairperson or any Member shall be varied to his disadvantage after his appointment.

(7) The Chairperson and every other Member shall, before entering upon his office, make a declaration of fidelity and secrecy in the form set out in Schedule II.

(8) The Chairperson or any other Member ceasing to hold office as such shall not hold any appointment or be connected with the management or administration in any Referred Enterprise, in relation to which any matter has been the subject matter of consideration before the Board, for a period of two years from the date on which he ceases to hold such office.

(9) The tenure of the Chairperson and Members of the Board shall be initially for a period not exceeding three years subject to the proviso to sub-section (1), the tenure may be extended from time to time by, the Government at its option, till the exercise of restructuring, etc., of the State Enterprises, is completed to the satisfaction of the Government. Consistent with the provision of sub-section (1), the Chairperson and Members of the Board may

pursue any other activities of their choice, for personal gain or otherwise, during their tenure.

5. Removal of Members from office in certain circumstances :-

The Government may remove from office any Member who,--

- (a) has been adjudged as insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Government, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as a Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to public interest.

6. Officer and other employees of board :-

(1) The Government may provide the Board with such other officers and employees as may be necessary for the efficient performance of the functions of the Board. The officers may be given such powers as the Chairperson may decide to be necessary to discharge the administrative functions of the Board, including issue of notices under the seal of the Board.

(2) The salaries and allowances and the conditions of service of the officers and employees of the Board shall be such as may be prescribed:

Provided that, such officers or other employees shall, before entering upon their duties, make a declaration of fidelity and secrecy in the form set out in Schedule II.

7. Fees, etc., to be defrayed out of the Consolidate Fund of the State :-

The professional fees and allowances payable to the Members and Assisting Agencies and the administrative expenses including professional fees, salaries, allowances, pension, etc., payable to or in respect of the experts and officers and other employees of the Board shall be derayed out of the Consolidated Fund of the State..

8. Vacancies, etc., not to in validate proceeding of the Board :-

No act or proceedings of the Board or, as the case may be, a Member thereof, shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Board or any defect in the appointment of a person acting as a Member of the Board.

9. Members and staff of the Board to be public servants :-

The Chairman and other Members and the officers and other employees of the Board shall be deemed to be public servants within the meaning of section 21 of the 1860 (45 of 1860) Indian Penal Code.