

Nagpur Improvement Trust (Amendment) Act, 2011

31 of 2011

[18 August 2011]

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PREAMBLE

An Act further to amend the Nagpur Improvement Trust Act, 1936.
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 further to amend the Nagpur Improvement Trust Act, 1936, for the purposes hereinafter appearing; and therefore, promulgated the Nagpur Improvement Trust (Amendment) Ordinance, 2011, on the 4th July 2011;
AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature;
it is hereby enacted in the Sixty-second Year of the Republic of India as follows:--

1. Short title and commencement :-

(1) This Act may be called the Nagpur Improvement Trust (Amendment) Act, 2011.

(2) It shall be deemed to have come into force on the 4th July 2011.

2. Amendment of section 4 of C.P. and Berar XXXVI of 1936 :-

In section 4 of the Nagpur Improvement Trust Act, 1936 (hereinafter referred to as "the principal Act"),--

(1) in sub-section (1),--

(a) for the words "nine Trustees" the words "ten Trustees" shall be substituted;

(b) after clause (b), the following clause shall be inserted, namely:--

-(ba) the Collector or Additional Collector of Nagpur District, to be nominated by the State Government;";

(2) in sub-section (3), for the words, brackets and letter "or clause (c)" the words, brackets and letters ", clause (ba) or clause (c)" shall be substituted.

3. Amendment of section 7 of C.P. and Berar XXXVI of 1936 :-

In section 7 of the principal Act, in sub-section (1), for the words, brackets and letter "or clause (c)" the words, brackets and letters ", clause (ba) or clause (c)" shall be substituted.

4. Amendment of section 21-A of CP. and Berar XXXVI of 1936 :-

In section 21-A of the principal Act, in sub-section (2), the proviso shall be deleted.

5. Amendment of section 22 of C.P. and Berar XXXVI of 1936 :-

Section 22 of the principal Act shall be re-numbered as sub-section (1) thereof; and

(1) in sub-section (1) as so renumbered,--

(a) in clause (a), for the words "whose monthly salary does not exceed one hundred and fifty rupees" the words "whose Grade Pay

in the pay structure is equivalent to or lower than that of an Assistant Engineer" shall be substituted;

(b) in the proviso, for the words "in receipt of a monthly salary exceeding fifty rupees" the words "in receipt of Grade Pay in the pay structure less than that is payable to an Assistant Engineer" shall be substituted;

(2) after sub-section (1), as so renumbered, the following sub-section shall be added, namely:--

"(2) Notwithstanding anything contained in this section, it shall be lawful for the State Government by an order, to depute any officer in the service of the State Government for appointment on the establishment of the Trust, who shall be so appointed by the Trust. The terms and conditions of service and the term of appointment of such deputed officer shall be such, as may be specified by the State Government in the order."

6. Amendment of section 24 of C.P. and Berar XXXVI of 1936 :-

In section 24 of the principal Act, in sub-section (2), for the words "and also to control and revision by the Chairman" the words "and also to control and suo motu revision by the Chairman" shall be substituted.

7. Insertion of sections 24-D and 24-E in C.P. and Berar XXXVI of 1936 :-

After section 24:C of the principal Act, the following sections shall be inserted, namely :--

"24-D. Power of State Government to issue directions or instructions :-

The State Government may, from time to time, issue such directions or instructions as it may think fit in regard to finance and conduct of business and affairs of the Trust and the Trust shall be bound to follow and act upon these directions or instructions:

Provided that, the State Government shall, before issuing any directions or instructions, give an opportunity to the Trust to make representation within fifteen days as to why such directions or instructions shall not be issued. If the Trust fails to represent within fifteen days or, after having represented, the State Government on considering the representation, is of the opinion that issuing of such directions or instructions is necessary; the State Government may issue the same.

24-E. Power of State Government to give appropriate order in respect of certain resolution, etc. of Trust :-

(1) If the State Government on a reference made to it by the Chairman, or suo motu, is satisfied that any resolution or order or any act of the Trust or of any of its authorities or officers is in contravention of, or, in excess of, the powers conferred by or under this Act or any other law for the time being in force, or rules, regulations or bye-laws made thereunder, or is likely to lead to abuse or misuse of, or cause waste of the Trust Fund or is against the financial interests of the Trust or against the interests of public or against the policy of the State Government, the State Government may, give an appropriate order in writing, in that behalf to the Trust. A copy of such order shall be sent forthwith by the State Government to the Chairman:

Provided that, the State Government shall, before issuing any such order, give an opportunity to the Trust to make representation within fifteen days as to why such order shall not be issued. If the Trust fails to represent within fifteen days or, after having represented, the State Government, on considering the representation, is of the opinion that issuing of such order is necessary; the State Government may issue the same.

(2) On receipt of the order sent under sub-section (1), the Trust shall be bound to follow and act upon such order.

(3) No resolution or order or act which has been referred to by the Chairman under sub-section (1) or suo motu cognizance of which has been taken under that sub-section shall be implemented by the Trust or any of its authorities or officers, until decision of the State Government in accordance with the provisions of sub-section (1) is communicated to the Trust."

8. Amendment of section 52-B of C.P. and Berar XXXVI of 1936 :-

In section 52-B of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:--

"Provided that, a contract involving an expenditure exceeding fifty lakh rupees shall not be made by the Chairman without the previous sanction of the Trust."

9. Amendment of section 52-C of C.P. and Berar XXXVI of 1936 :-

In section 52-C of the principal Act,--

(1) in sub-section (3), for the words, brackets, figures and letters "under clause (a) of the proviso to sub-section (1) of section 52-B" the words, brackets, figures and letter "under the proviso to sub-section (1) of section 52-B" shall be substituted;

(2) in sub-section (4), for the words, brackets, figures and letters "in clause (a) of the proviso to sub-section (1) of section 52-B and the State Government in the cases referred to in clause (b) of the said proviso" the words, brackets, figures and letter "under the proviso to sub-section (1) of section 52-B" shall be substituted.

10. Insertion of heading and sections 88-A and 88-B in CP and Berar XXXVI of 1936 :-

After section 88 of the principal Act, the following heading and sections shall be inserted, namely:--

"RECOVERY AND COLLECTION OF AMOUNT RECOVERABLE BY TRUST

88-A, Recovery of amount due to Trust :-

(1) Save as otherwise expressly provided by or under this Act, when any amount which is recoverable under this Act or any other law for the time being in force, has become due, the Trust shall, within a reasonable time, cause to be presented to the person liable for the payment thereof, a bill for the sum claimed as due.

(2) Every such bill shall specify-

(a) the period for which, and

(b) the details of the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of the liability incurred in default of payment, so also information regarding right to prefer an appeal under section 108-A against such claim.

(3) If the sum for which any bill has been presented, as aforesaid is not paid into the Trust office, or to a person authorized by the Trust in that behalf to receive such payments, within fifteen days from the presentation thereof or if no appeal against any claim included in a bill is made, the Trust shall cause to be served upon the person liable for the payment of the said sum a notice of demand in the prescribed form.

88-B. Certain sums to be recoverable as arrears of land revenue :-

(1) Notwithstanding anything contained in any other provision of this Act, if the person upon whom the notice of demand has been served under section 88-A fails to pay, within fifteen days from the service of such notice of demand, the sum demanded in the notice, or to show cause to the satisfaction of the Chairman or such officer

as the Chairman may appoint in this behalf, why he should not pay the same, the outstanding amount shall be liable to be recovered as arrears of land revenue under the Maharashtra Land Revenue Code, 1966, and the rules made thereunder.

(2) The powers of Collector under the Maharashtra Land Revenue Code, 1966 shall be exercised by the Chairman for the purposes of sub-section (1):

Provided that, the Chairman may, by an order in writing, signed by him, delegate the powers under this sub-section to any officer of the Trust not below the rank of Divisional Officer."

11. Insertion of Chapter XA and section 108-A in C.P. and Berar XXXVI of 1936 :-

After section 108 of the principal Act, the following Chapter and section shall be inserted, namely;--

"CHAPTER XA

Appeals

108-A. Appeals :-

(1) Any person aggrieved by an order of an Officer of the Trust passed under this Act or under any rule or regulation made thereunder, may, within a period of thirty days from the date of receipt of such order, appeal to such Officer who has been designated by the Chairman to hear such appeals, or if no such Officer has been designated, to the Chairman.

(2) Any order passed in appeal by any such Officer, other than the Chairman, shall be subject to revision by the Chairman.

(3) If the original order has been passed by the Chairman himself, the appeal shall lie to the State Government or any of its officer as it may direct."

12. Repeal of Mah. Ord. XVII of 2011 and saving :-

(1) The Nagpur Improvement Trust (Amendment) Ordinance, 2011 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.