

Orissa Aerial Ropeways Act, 1957

22 of 1957

[30 August 1957]

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SCHEDULE 1 :- SCHEDULE I

Orissa Aerial Ropeways Act, 1957

22 of 1957

[30 August 1957]

An Act to authorise, facilitate and regulate the construction and working of aerial ropeways in Orissa. Whereas it is expedient to authorise; facilitate and regulate the construction and working of ropeways in Orissa. It is hereby enacted by the Legislature of the State of Orissa in the Eighth Year of the Republic of India as follows :

1 Statement of Objects and Reasons - Messrs. Tata Iron and Steel Company, Limited, have applied for a licence from the State Government under the Bihar and Orissa Aerial Ropeways Act, 1924, for installation and operation of bi-cable ropeways at Gorumahisani Iron Mine in, the District of Mayurbhanj and at Joda East Iron Mine in the District of Keonjhar to facilitate and expedite despatches of Iron ore. The Bihar and Orissa Aerial Ropeways Act, 1924 is not applicable to the entire State of Orissa. Except in the case of old Districts of Cuttack, Puri and Balasore, no notification under Section 1 (ii) of the Act will have any legal effect. Again, the merged States do not come under the purview of the Bihar and Orissa-Aerial Ropeways Act and the Merged States Laws Act will have to be suitably amended to make the Bihar and Orissa Aerial Ropeways Act, applicable to such areas. A further difficulty has to be faced in making the Act applicable to Scheduled areas like Mayurbhanj as a regulation under the 5th Schedule of the Constitution will have to be made to make the Act applicable to such areas. To obviate all these difficulties, it is proposed to introduce the Orissa Aerial Ropeways Bill in the Assembly with a view to enable the State Government to meet the requirements of the rapidly growing industries in the State. *. Published vide Orissa Gazette Notification No. 5642/26.10.1957. 1. For Select Committee Report, see Orissa Gazette Ext./21.6.1957

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Aerial Ropeways Act, 1957.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force in such area or areas and on such date or dates as the State Government may, by notification, appoint.

2. Definitions :-

In this Act unless there is anything repugnant in the subject of context-

- (i) "Aerial Ropeway" means an aerial ropeway (or any portion thereof) for the carriage of passengers, animals or goods and include, all ropes, posts, carriers, stations, offices, warehouses,

workshops, machinery and other works used for the purposes of, or in connection with and all land appurtenant to such aerial ropeway ;

(ii) "Inspector" means Inspector of aerial ropeways appointed under this Act;

(iii) "prescribed" means prescribed by rules made by the State Government under this Act;

(iv) "Post" includes any trestle, standard, stay, strut or other contrivance for carrying, suspending or supporting a rope;

(v) "Promoter" means the State Government, a local authority or a Company incorporated under the Indian Companies Act, 1 of 1956 or any person in whose favour an order has been made under Section 6; and

(vi) "Rope" includes any cable, wire, rail or way, whether flexible or rigid, for suspending, carrying or hauling a truck, carrier or other vehicle, if any part of such cable, wire, rail or way is carried overhead and is suspended from, or supported on posts.

3. Sanction Of Opening Of Aerial Ropeway :-

No promoter other than the State Government shall construct an aerial ropeway except with the sanction of the State Government.

4. Application For Sanction For Aerial Ropeway :-

(1) An application by an intending promoter as specified in Section 3 for sanction to construct or work an aerial ropeway shall be made to the State Government and shall be accompanied by such particulars, estimates, plans and drawings as the State Government may require.

(2) The State Government may accord sanction to such an intending promoter to enter on any immovable property and to make such surveys as may be necessary to enable him to furnish the information required by the State Government under Sub-section (1) :

Provided that-

(a) such intending promoter shall not be entitled to enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so; and

(b) such intending promoter shall, before he enters any immovable property, pay or tender payment for all necessary damage to be

done and in case of dispute as to the sufficiency of the amount so paid or tendered he shall at once refer the dispute to the Collector whose decision shall be final.

5. Procedure Where Application Is In Respect Of Aerial Ropeway On Land Not Belonging To Promoter :-

(1) When the application is for sanction to construct an aerial ropeway in land not belonging to such intending promoter, the State Government shall cause notice of such application together with a draft of the proposed order under Section 6 to be published in the Gazette and at convenient places on or near the route along which the aerial ropeway is intended to be constructed or worked and to be served on the occupiers (if any) of land and on all persons known or believed to be interested in land, on such route in the manner provided in Section 9 of the Land Acquisition Act 1 of 1894, and shall in such notice fix a date, which shall not be less than sixty days from the date of the publication in the Gazette of the aforesaid notice and draft of the proposed order after which the application and any objection or suggestion with respect thereto which may be received from any person on or before such date, will be considered.

(2) The draft of the proposed order may specify-

- (i) a time within which the construction shall be commenced;
- (ii) a time within which the construction shall be completed ;
- (iii) the conditions relating to the structural design, quality of materials, factors of safety, method of computing stresses, and other such, technical details as may be considered necessary;
- (iv) the conditions relating to the construction of the ropeway over mining properties in accordance with rules made under Section 24 and over public ways of communication;
- (v) the conditions under which the promoter may sell or transfer his rights to any person;
- (vi) the motive power to be used on the ropeway and the conditions (if any) on which such power may be used ;
- (vii) the minimum headway to be maintained under different parts of the rope;
- (viii) the points under the rope at which bridges or guards shall be constructed and maintained;
- (ix) the amount of security (if any) to be deposited by the promoter in the event of his application being granted;
- (x) the traffic which may be carried on the ropeway; and

(xi) such other matters as the State Government may deem necessary.

6. Disposal Applications :-

(1) If after considering the application, and in the case of an application mentioned in Section 5, any objections or suggestions which may have been made in respect of the application or the draft of the proposed order on or before the specified date, the State Government are of opinion that the application should be granted with or without modifications, or subject or not to any restrictions, or conditions, the State Government shall make an order accordingly :

Provided that, where the aerial ropeway is to be constructed or worked in whole or in part over any railway or tramway other than a municipal tramway the order granting the application shall specify the condition, which shall previously have been approved by the Central Government, of such construction or working.

(2) Every order granting-such an application shall be published in the Gazette.

7. Rights Of User :-

When an application for sanction to construct or work on aerial ropeway in land not belonging to the promoter has been granted, the promoter shall have the right so far as is necessary for the construction and working of the aerial ropeway, and in conformity with the order made under Section 6 -

- (a) to enter on any immovable property;
- (b) with the sanction of the Collector to fix, maintain or remove any post;
- (c) with the sanction of the Collector, to suspend and maintain a rope over, along and across any property and to carry vehicle on such rope; and
- (d) with the sanction of the Collector, to remove any tree which interferes or is likely to interfere with the construction or working of the aerial ropeway :

Provided that-

- (i) the promoter shall cause as little damage as possible in the exercise of the powers conferred by this section; and
- (ii) nothing in this section shall confer on the promoter any right other than that of user in any immovable property.

8. Compensation Or Rent :-

(1) The promoter shall pay such compensation or annual rent or both in respect of the exercise of the powers conferred by Section 7 to such persons as the Collector may, on the application of the promoter or of any person claiming to be entitled to compensation or annual rent or both, determine.

(2) Not suit shall lie in respect of any matter referred to In Sub-section (1) but every order of the Collector thereunder shall be subject to revision by the District Judge on the application of any person made within ninety days of the date of the Collectors order.

9. Acquisition Of Land :-

(1) Where the State Government are satisfied that the construction or working of an aerial ropeway for private traffic is likely to prove useful to the public by reason of its facilitating the transport of commodities in general use or is required for the conservation or service of undertakings supplying those commodities, and where the promoter of such aerial ropeway is desirous of obtaining any land for purpose of such construction or working, the State Government may, on the application of such promoter, acquire on his behalf such land under the provisions of Part VII of the Land Acquisition Act 1 of 1894.

(2) For the purposes of such acquisition references in the aforesaid provisions to a company shall be deemed to be references to the promoter and the words "and the terms on which the public shall be entitled to use the work" in Section 41 and the words and brackets (so far as regards the terms on which the public shall be entitled to use the works) in Section 42 of the said Act shall be deemed to be omitted.

10. Notice To Be Given Before Working Mines Near Post :-

(1) The owner or agent of a mine as defined in Section 2 of the Mines Act, XXXV of 1952 or the manager to a mine appointed under Section 17 of the said Act shall give to such authority as the State Government may by general or special order direct sixty days notice before commencing or extending any mining operations under his control at or to any point within such distance of any post appertaining to an aerial ropeway as the State Government may by rules provide.

(2) For the purpose of the application of the provisions of the Land

Acquisition (Mines) Act, XVIII of 1885, to land acquired under Section 9 as notice under this section shall have the same effect as notice under Section 4 of the said Act.

11. Inspection Of Aerial Ropeway Before Opening :-

(1) Notwithstanding anything contained in Section 6 or 7, no aerial ropeway shall be opened for any kind of traffic until the State Government have by an order sanctioned the opening thereof for that purpose. Such sanction shall not be given until an Inspector has, after inspection of the aerial ropeway, reported in writing to the State Government-

(a) that he has made a careful inspection of the aerial ropeway and its appurtenances;

(b) that the terms of the order made under Section 6 have been complied with;

(c) that the aerial ropeway is fit and sufficiently equipped for the traffic for which it is intended; and

(d) that the aerial ropeway can, in his opinion, be used without danger to the persons carried or employed thereon and to the general public.

(2) The provisions of Sub-section (1) shall extend to the opening of additional sections of the aerial ropeway and to deviation lines and to any alteration or reconstruction materially affecting the structural character of any work to which the provisions of Sub-section (1) apply or are extended by this sub-section.

12. Appointment And Duties Of Inspectors :-

(1) The State Government may appoint such persons as they deem fit, to be Inspectors of aerial ropeways, and may fix the fees to be charged to promoters for the performance by Inspectors of their duties under this Act.

(2) It shall be the duty of an Inspector, from time to time, to inspect aerial ropeways, and to determine whether they are maintained in a fit condition and worked with due regard to the safety of the persons carried or employed thereon and of the general public and consistently with the provision of this Act and of the rules made thereunder and with the term of the order made under Section 6.

13. Power Of Inspectors :-

An Inspector shall, for the purpose of any of the duties which he is authorised or required to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, XLV of 1860 and shall, for that purpose, have such powers as the State Government may, by rules, specify.

14. Facilities To Be Afforded To Inspectors :-

The promoter and his servants and agents shall afford to an Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act, and by rules made thereunder.

15. Protection Of Roads, Railways, Tramways, And Waterways :-

No promoter shall, in the course of the construction, repair, working or management of an aerial ropeway, cause any permanent injury to any public road, railway, tramway or waterway, or obstruct or interfere with, otherwise than temporarily, as may be necessary, the traffic on any public road, railway, tramway waterway.

16. Reporting Of Accident :-

When in the course of working an aerial ropeway any accident occurs which causes loss of life or serious bodily injury or serious injury to property or is of any other description which the State Government may specify by rules made in this behalf the promoter shall give such notice of the occurrence to such authorities, and in such form, and within such time, as the State Government may by rules provide.

17. Penalty For Constructing Or Working Ropeway Without Sanction :-

Any person who contravenes the provisions of Section 3 shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing offence to a further fine which may extend to five hundred rupees for everyday after the first during which the offence continues to be committed.

18. Failure Of Promoter To Comply With Act :-

If a promoter of an aerial ropeway ;

(a) opens an aerial ropeway without the sanction of the State Government; or
(b) constructs or works an aerial ropeway otherwise than in accordance with the terms of an order made under Section 6; or
(c) fails to pay within a reasonable time any compensation, awarded by the Collector under Section 8; or
(d) fails to comply with the provisions of Section 14; or
(e) contravenes any of the provisions of Section 15; or
(f) fails to send notice of any accident as required by Section 16; or
(g) contravenes the provisions of any rule made under this Act;
he shall (without prejudice to the enforcement of specific performances of the requirements of the Act, or of any other remedy which may be obtained against him) be punishable with fine which may extend to five hundred rupees and in the case of a continuing offence, to a further fine which may extend in the case of an offence specified in Sub-clause (c) or (f) to one hundred rupees and in the case of an offence, specified in Sub-clauses (a), (b), (d), (e) or (g) to two hundred rupees for every day after the first during which the offence continues to be committed.

19. Prosecution Of Promoter :-

No prosecution shall be instituted against a promoter for any offence under this Act except at the instance of an Inspector or of the District Magistrate, and no Court shall take cognizance of any such offence unless complaint thereof has been made within six months of the date on which the offence is alleged to have been committed.

20. Unlawfully Obstructing Promoter In Exercise Of Powers :-

If any person without lawful excuse wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing, maintaining, altering, repairing or working an aerial ropeway or injures or destroys any mark made for the purpose of setting out the line or route of such ropeway, he shall be punished with fine which may extend to five hundred rupees.

21. Unlawfully Interfering With Aerial Ropeway :-

If any person without lawful excuse wilfully does any of the

following things, namely :

- (a) interferes with, removes or alters any part of an aerial ropeway;
- (b) does anything in such a manner as to obstruct any vehicle, travelling on an aerial ropeway;
- (c) attempts to do, or abets, within the meaning of the Indian Penal Code, XLV of 1860, the doing of anything mentioned in Clause (a) or Clause (b); he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punishable with fine which may extend to five hundred rupees.

22. Maliciously Doing, Abetting Or Attempting To Do, Acts Endangering Safety Of Persons Travelling Or Being Upon Aerial Ropeway :-

If any person does anything mentioned in Clauses (a), (b) or (c) of Section 21 or does, attempts to do, or abets, within the meaning of the Indian Penal Code, XLV of 1860, the doing of any other act or thing in relation to an aerial ropeway with intent or with knowledge that he is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall, on conviction, be punished with imprisonment for a term which may extend to fourteen years.

23. Arrest For Offences Against Certain Sections :-

(1) If any person commits any offence punishable with imprisonment under Section 22, he may be arrested without warrant or written authority by any servant of the promoter, or by any police officer or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or to commit him for trial.

24. Power Of State Government To Make Rules :-

(1) The State Government may, after previous publication, make rules to carry out the purpose as of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following purposes, namely :

- (a) providing for the safety of persons carried on, and employed in the working of aerial ropeways, and of the general public;

- (b) prescribing and regulating the duties and powers of Inspectors;
- (c) prescribing the conditions under which licences for the construction of aerial ropeways over mining properties shall be granted, including conditions as to the assessment and payment of compensation for loss caused by the interruption of the getting of minerals by reason of such construction and conditions as to the removal of any portion of the ropeway to another alignment to be fixed by arbitration, if necessary, if at any time in the opinion of the State Government the ropeway interferes with the raising of minerals;
- (d) prescribing the method of arbitration for the settlement of disputes;
- (e) the protection from injury in respect of aerial ropeways of property vested in the Government or any local authority;
- (f) prescribing the standard dimensions and specifications to which an aerial ropeway shall conform;
- (g) prescribing the distance from a post appertaining to an aerial ropeway up to which the commencement or extension of mining operations by the owner, agent or manager of a mine requires notice to be given under Section 10;
- (h) determining the fees to be charged to promoters and other persons in respect of inquiries, inspections and services rendered under this Act;
- (i) specifying the description of accidents of which notice shall be given under Section 16;
- (j) prescribing the duties of the promoters servants, police officers and Magistrates on the occurrence of an accident; and
- (k) prescribing the manner in which notices under this Act shall be served.

25. Application Of Act To Aerial Ropeways Constructed Before, Or Under Construction At The Time Of Its Commencement :-

The provisions of this Act, except Sections 3, 4, 5, 6, 7, 8, 17 and Clauses (a), (b) and (c) of and the reference thereto in Section 18 shall so far as may be also apply to aerial ropeways constructed before or under construction at the time of the commencement of this Act as if the owner of any such ropeway were the promoters and all the provisions of this Act shall apply also to any extension of such aerial ropeways and any material alteration or reconstruction thereof.

26. Repeals And Savings :-

The enactments mentioned in the Schedule so far as they are in force in the State of Orissa are hereby repealed to the extent specified in the fourth column thereof :

Provided that the repeal of the enactments hereinbefore referred to shall not affect-

(a) the previous operation of such enactments as repealed or the validity, invalidity, effect or consequence of anything already done or suffered thereunder; or

(b) any right, title, privilege, obligation or liability acquired, occurred or incurred under the said enactments; or

(c) any investigation, legal proceeding or remedy in respect of such right, title, privilege, obligation or liability as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced as if this Act had not been passed.

SCHEDULE 1

SCHEDULE I

Enactments Repealed

[See Section 26]

| Year | No. | Short Title | Repeal |
|-------------|------------|--|--|
| (1) | (2) | (3) | (4) |
| 1924 | III | The Bihar and Orissa Aerial Ropeways Act | The whole |
| 1936 | I | The Orissa Law Regulation | In Part II of the Fourth Schedule the entry relating to "1924-III-The Bihar and Orissa Aerial Ropeways Act, 1924, the, areas transferred to Orissa from the Presidency of Madras and the Central Provinces". |
| 1949 | IV | The Sambalpur Aerial Ropeways Regulation | The whole. |