

Orissa Electric Supply-Line Material (Unlawful Possession) Act, 1988

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Orissa Electric Supply-Line Material (Unlawful Possession) Act, 1988

AN ACT TO PROVIDE FOR PREVENTION OF THE ~~AND~~ UNLAWFUL POSSESSION OF ELECTRIC SUPPLY-LINE MATERIALS AND MATTERS CONNECTED THEREWITH Be it enacted by the Legislature of the State of Orissa in the Thirty- ninth Year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Orissa Electric Supply-line Material (Unlawful Possession) Act, 1988.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force at once.

2. Definitions :-

In this Act unless the context otherwise requires-

- (a) "Authorised Officer" means an Officer of the Orissa Electricity Board not below the rank of a Superintending Engineer (Electrical)

who has been authorised by the Government by notification issued in this behalf to exercise the powers of confiscation under this Act for a particular area;

(b) [Omitted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] (* * *)

(c) "Electric Supply-Line Material" means

(i) ACC (All Aluminum Conductor);

(ii) ACSR (Steel Cored, Aluminum Conductor);

(iii) High Voltage Cable, 11 K.V. and above;

(iv) Insulator, 11 K.V. and above;

(v) Lighting Arrester, 11 K.V. and above;

(vi) Support for Electric Supply-line and part thereof; or

(vii) Transformer belonging to Government or Board, but shall not include (1) PVC Cable (Service connection); (2) PVC Cable (Domestic wiring): [Omitted vide O.A. No.6 of 1997, O.G.E. No.

662, Dt. 29.5.1997.] [* * *]

(d) "Government" means the State Government of Orissa; [Inserted ibid.] [(d-1)" Gridco" means the Grid Corporation of Orissa Limited as referred to in Section 13 of the Orissa State Electricity Reform Act, 1995;]

(e) "prescribed" means prescribed by Rules made under this Act; and

(f) Words and expressions used but not defined in this Act and defined in the Indian Electricity Act, 9 of 1910 shall have the same meaning as assigned to them under that Act.

3. Penalty For Unlawful Possession Of Electric Supply-Line Material :-

Whoever is found to have been in possession of any electric supply-line material reasonably suspected of having been stolen or unlawfully obtained or retained shall, unless he proves that he was in lawful possession of such materials, shall be punishable-

(a) for the first offence, with imprisonment of either description for a term which may extend to three years and with fine and in the absence of special and adequate reasons to be recorded in the judgment of the Court, such imprisonment shall not be less than two years and such fine shall not be less than one thousand rupees;

(b) for the second or subsequent offence with imprisonment of either description for a term which may extend to five years and also with fine and in the absence of special and adequate reasons

to be mentioned in the judgment of the Court, such imprisonment shall not be less than three years and such fine shall not be less than two thousand rupees.

4. Non-Production Of The Material Before Court :-

In any trial for an offence under Section 3 of this Act

- (a) the burden of proof that the accused was in lawful possession of the electric supply-line material shall be on him;
- (b) it shall not be necessary to produce the seized materials in the Court for the purpose of identification. The production of the seizure list duly countersigned by the Authorised Officer of the area or the Investigating Officer, as the case may be, shall be conclusive proof of such identification.

5. Search Of Place Suspected To Contain Electric Supply-Line Material :-

(1) If any place including an enclosure, tank, well, reservoir or any premises is suspected to be used for the deposit of stolen electric supply-line material, any officer of the Board, not below the rank of a Sub-divisional Officer (Electrical) with the written permission of the Authorised Officer may enter such place for the purpose of search and may take the assistance of such subordinates, assistants or other employees of the Board as may be considered reasonable and necessary for conducting the search and to make arrangements for guarding the place until arrangement is made for the seizure and removal of the electric supply-line material to some place of safety.

(2) All persons in possession or occupation of the place, premise, tank, reservoir or well, on disclosure of the identity of the officer conducting the search, shall allow him free ingress thereto and afford all reasonable facilities for search therein.

(3) Before making a search under this section, the officer about to make it shall call upon one or more respectable persons of the locality in which the place is situate or of any other locality if no such inhabitant of the said locality is available or is willing to attend as witness to the search and the search shall be made in the presence of such witness.

(4) Any person obstructing the search conducted by an officer of the I [Gridco) shall be punishable with imprisonment which may extend to six months and fine.

6. Seizure Of Electric Supply-Line Materials :-

(1) When it is reasonably suspected that an offence under this Act has been committed in respect of electric supply-line material, such supply line material together with all tools, ropes, chains and any vehicles, vessels or other modes of conveyance used for transport of such supply-line material, may be seized by any officer of [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] [Gridco) not below the rank of a Sub-divisional Officer (Electrical).

(2) Every officer seizing any electric supply-line material or tools, chains, vehicles or other modes of conveyance under Sub-section (1) shall, within seventy-two hours from the time of seizure, produce the property seized before the Authorised Officer of the area. All officers of the [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] [Gridco] including the Authorised Officer when they seize any electric supply-line material shall lodge information with the Police along with a copy of the seizure list duly countersigned by the Authorised Officer without producing the seized material.

(3) Every Police Officer seizing electric supply-line material in connection with an offence suspected to have been committed under this Act shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) forward a copy of the seizure list to the Authorized Officer within seventy-two hours from the time of seizure and shall make over to the said Authorised Officer the seized property including the tools, chains, ropes, vehicles, vessels, and other conveyances seized, for purpose of initiating confiscation proceeding under this Act.

(4) The seizure list prepared of the materials of the tools, chains, vehicles and other modes of conveyance seized in course of search, shall be signed by the officer making the seizure and the witness present. A report of seizure alongwith a copy of the seizure list so made shall be sent to the nearest Magistrate having jurisdiction to try any offence under this Act.

7. Confiscation Of Seized Articles :-

(1) Where an Authorised Officer seizes any electric supply-line material or where any such electric supplyline material is produced before him or is made over to him by the Police, he shall, if he is satisfied that an offence under this Act has been committed in

respect thereof, order the confiscation of the electric supply-line material together with all tools, ropes, chains, vehicles, vessels and other conveyances used in committing such offence within the prescribed time:

Provided that no order confiscating any electric supply-line material or any tools, ropes, chains, vehicles or other conveyances used in committing the offence shall be made, unless the person from whom the property seized is given

(a) a notice in writing informing him of the grounds on which it is proposed to confiscate such property, tools, ropes, chains and vehicles, vessels and other conveyances;

(b) an opportunity of making representation in writing within such reasonable time as were specified in the notice against the grounds of confiscation; and

(c) a reasonable opportunity of being heard in the matters.

(2) Without prejudice to the provisions of Sub-section (1) no order confiscating any vehicle, vessel or other conveyance shall be made, if the owner of such vehicle, vessel, or other conveyance proves to the satisfaction of the Authorised Officer that it was used in carrying the electric supplyline material without the knowledge or connivance of the owner himself, and his agent, if any, and the person in-charge of the vehicle, vessel or other conveyance had taken all reasonable and necessary precautions against such use.

8. Appeal :-

(1) Any person aggrieved by an order of confiscation made under Section 7 may within one month from the date of communication to him of such order, appeal to the [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] [Director, Transmission and Distribution of the Gridco] and the appellate authority after giving an opportunity to the appellant to be heard, may pass such order as he may think fit, confirming, modifying, or annulling the order appealed against.

(2) The appellate order shall be final and notwithstanding the result of the criminal case, if any, the confiscation as confirmed by the appellate authority shall not be questioned in any Civil or Criminal Court of Law.

9. Vesting Of Property :-

(1) When an order of confiscation of any materials, tools and conveyance has become final, such materials or a portion thereof,

including the tools, vehicles, vessels and other conveyances, as the case may be, shall vest in the [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.][Gridco] free from all encumbrances and the [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] [Gridco], after fixing a reasonable valuation of the property, may dispose of the same in such manner as it deems proper.

(2) Where in prosecution under Section 3 of this Act, the person concerned is acquitted on a finding that he was in lawful possession of the seized property, he will be entitled to be refunded the value or price fixed under Sub-section (1) or the actual disposal price, whichever is higher, from the [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] [Gridco].

10. Confiscation To Be No Bar To Imposition Of Other Penalty :-

An order of confiscation made under Section 7 shall not act as a bar to the imposition of any other penalty to which the offender is liable under the Act.

11. Offence Cognizable :-

An offence under this Act shall be cognizable and non-bailable.

12. Presumption As To Orders :-

Where an order purports to have been made and signed by the authority in exercise of any power conferred by or under this Act, the Court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 10 of 1872.

13. Protection Of Action Taken Under The Act :-

No suit, prosecution or any legal proceeding shall lie against any person or the [Substituted vide O.A. No.6 of 1997, O.G.E. No. 662, Dt. 29.5.1997.] [Gridco] for anything done in good faith or intended to be done in pursuance of the provisions of this Act.

14. Act To Override Other Laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the

time being in force.

15. Power To Make Rules :-

The State Government may make Rules for carrying out all or any provisions of this Act.