

Rajasthan State Bus Terminal Development Authority Act, 2015

19 of 2015

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Rajasthan State Bus Terminal Development Authority Act, 2015

19 of 2015

An Act to provide for the creation, development and operation of facilities at the notified bus terminals and for the constitution of the Rajasthan State Bus Terminal Development Authority and for the matters connected therewith or incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-sixth Year of the Republic of India, as follows:-

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

- (1) This Act may be called the Rajasthan State Bus Terminal Development Authority Act, 2015.
- (2) It extends to the whole of the State of Rajasthan.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Authority" means the Rajasthan State Bus Terminal Development Authority constituted under section 4;
- (b) "Chairperson" means the Chairperson of the Authority;
- (c) "concession" means the rights and obligations specified in a contract entered into between the Authority and any person for the development, financing and operation of the notified bus terminals or part thereof;
- (d) "concessionaire" means a person who has entered into a contract with the Authority for and in respect of a concession;
- (e) "consultant" means a person who has the qualification, experience, and expertise to assist and advise the Authority on matters related to the functions of the Authority;
- (f) "encroachment" means unauthorized occupation of any notified bus terminal or part thereof, and includes,-
 - (i) the erection of a building or any other structure, balconies, thresholds, porches or projections on, over, or overhanging, the notified bus terminal or any part thereof;
 - (ii) unauthorized stacking of materials or goods of any description or exhibiting of articles for sale or erecting of any temporary structure or parking of vehicles at the premises of notified bus terminals;
- (g) "facility" includes hotel, motel, restaurants, service stations, hospitals, shopping complexes, office complexes, storage facilities, logistic hubs, entertainment complexes and other services and facilities for the users of notified bus terminals;
- (h) "member" means a member of the Authority appointed under section 4 and includes a Chairperson;
- (i) "notified bus terminal" means the bus terminal notified under section 3;
- (j) "operation", in relation to a notified bus terminal, includes its maintenance, repair, modification, improvement, management, regulation, and collection of user charges and "operate" shall be construed accordingly;
- (k) "person" includes any company or association or body of individuals, whether incorporated or not, or a partnership firm;
- (l) "private bus operator" means a person, other than State Transport Undertakings, who operates bus services;
- (m) "regulations" means the regulations made by the Authority under this Act; and
- (n) "rules" means the rules made by the State Government under this Act.

CHAPTER 2 Notification of Bus Terminals and Constitution of the Authority

3. Notification of the bus terminals :-

(1) The State Government may notify any bus terminal vested in it for the purpose of this Act specifying the premises thereof.

(2) With effect from the date of notification under subsection (1), the premises specified in the said notification and the property therein shall vest in the Authority and may be utilised by the Authority for the purposes of this Act.

4. Constitution of the Authority :-

(1) The State Government shall, as soon as may be after the commencement of this Act, constitute, by notification in the Official Gazette, an authority to be called the Rajasthan State Bus Terminal Development Authority for the purposes of this Act.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold, and dispose of property, both movable and immovable, and to contract, and may by the said name sue and be sued.

(3) The headquarters of the Authority shall be at Jaipur or at such other place as the State Government may notify in this behalf.

(4) The Authority shall consist of -

(a) a Chairperson, to be appointed by the State Government, by notification in the Official Gazette;

(b) four full time members, to be appointed by the State Government, by notification in the Official Gazette;

(c) six part-time members to be appointed by the State Government by notification in the Official Gazette, out of which three shall be the officers of the State Government, not below the rank of a Secretary to the State Government, one each of whom shall be from the Finance Department, the Planning Department and the Transport Department respectively, and the remaining three shall be eminent persons from the field of management, finance, banking, transport services, engineering, architecture, hotel and restaurant, commerce and industry and legal or accountancy profession.

(5) The Chairperson and full time members shall be appointed by the State Government on the recommendation of a screening committee consisting of-

- (a) Chief Secretary to the State Government -Chairperson;
- (b) Secretary to the Government incharge of Finance Department - Member;
- (c) Secretary to the Government incharge of Planning Department - Member;
- (d) Secretary to the Government incharge of Public Works Department - Member; and
- (e) Secretary to the Government incharge of Transport Department -Member-secretary

Explanation.- For the purposes of this sub-section and section 31, expression "Secretary to the Government incharge" means the Secretary to the Government incharge of a department and includes an Additional Chief Secretary or a Principal Secretary when he is incharge of a department.

5. Disqualification of members :-

A person shall be disqualified to be, or from being appointed as, the Chairperson or a member, if he -

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
- (b) is an undischarged insolvent; or
- (c) is of unsound mind and stands so declared by a competent Court; or
- (d) has been dismissed from service of the Central or any State Government or a body corporate owned and controlled by that Government; or
- (e) has in the opinion of the State Government, such financial or other interests in the Authority as is likely to affect, prejudicially, the discharge by him of his functions as a member.

6. Term of office and conditions of service of members :-

- (1) (i) The Chairperson and a full time member shall hold office for a period of three years from the date on which he enters upon his office, or till he attains the age of sixty five years, or during the pleasure of the State Government, whichever is earlier; and
- (ii) Every non-official part-time member shall hold office for a period of two years from the date on which he enters upon his office, or till he attains the age of sixty five years, or during the pleasure of the State Government, whichever is earlier.
- (2) The salary, allowances and other terms and conditions of

service of the non-official members shall be such as may be prescribed by rules.

(3) Any non-official member may resign his office by giving notice in writing to the State Government and on such resignation being accepted by the State Government, such member shall be deemed to have vacated his office.

7. Meetings :-

(1) The Authority shall meet at such time and place, and shall observe such rules of procedure, including quorum at such meetings, in regard to the transaction of the business at its meetings as may be prescribed by rules.

(2) The Chairperson or, if for any reason he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside over the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have and exercise a second or casting vote.

8. Vacancy not to invalidate proceedings :-

No act or proceeding of the Authority shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

9. Authentication of orders of the Authority :-

All orders, decisions and other instruments of the Authority shall be authenticated by the signature of the Chairperson or any other member or any officer of the Authority authorized by it in this behalf.

10. Administrative and functional structure of the Authority :-

The administrative and functional structure of the Authority shall be

formulated as prescribed in the regulations made in this behalf by the Authority.

11. Appointment of officers and employees :-

(1) For the purposes of discharging its functions, the Authority may, with the prior approval of the State Government, appoint such number of officers and employees as it may consider necessary.

(2) The salary, allowances and other terms and conditions of service of the officers and employees of the Authority shall be such as may be prescribed by the regulations made by the Authority with the prior approval of the State Government.

(3) The Authority may appoint, from time to time, any person as consultant as it may consider necessary, on such terms and conditions as may be specified by the regulations.

CHAPTER 3 Functions and Powers of the Authority

12. Functions and powers of the Authority :-

(1) It shall be the function of the Authority to create, develop and operate the facilities at the notified bus terminals and to streamline and facilitate the running of buses by State Transport Undertakings and private bus operators from such notified bus terminals.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority shall discharge or exercise the following functions or powers, namely: -

(a) to construct new facilities or upgrade existing facilities;

(b) to charge and collect rental, fee or user charges in connection with the services and the facilities provided by it, subject to such rules as may be made by the State Government in this behalf;

(c) to raise loans and enter into contracts for the purposes and objects of this Act;

(d) to arrange for postal, money exchange, banking services, insurance and telephone facilities for the use of passengers and other users at the notified bus terminals;

(e) to regulate and control the plying of vehicles, and the entry and exit of passengers and other users in the notified bus terminals with due regard to the security and safety, and protocol functions of the State Government and any other law for time being in force;

(f) to frame regulations for the matters specified in this Act;

(g) to recruit and appoint officers and employees of the Authority;

(h) to make appropriate arrangements for watch and ward at notified bus terminals for the safety and security of property, passengers and other users; and

(i) to discharge such other functions or exercise such other powers as may be necessary or conducive for the purposes of this Act or as may be assigned to it by the State Government.

(3) The Authority may carry out its functions under this section either by itself or through a concessionaire or any other agency.

(4) Nothing contained in this section shall be construed as-

(a) authorizing the disregard by the Authority of any law for the time being in force; or

(b) authorizing any person to institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not be otherwise subject to under this Act.

13. Authority to be bound by directions of the State Government :-

Without prejudice to the other provisions of this Act, the Authority in discharge of its functions and duties under this Act, be bound by such directions, not inconsistent with the provisions of this Act, as the State Government may give to it in writing from time to time.

CHAPTER 4 Property and Contracts

14. Acquisition of land by the State Government for the Authority :-

Where, on any representation from the Authority or otherwise, it appears to the State Government that, in order to enable the Authority to perform any of its functions it is necessary that any land in any part of the State should be acquired, the State Government may acquire the land under and in accordance with the provisions of any law, for the time being in force, relating to acquisition of land.

15. Authority competent to enter into contract :-

The Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act and such contract may include concession agreements.

16. Mode of executing contracts on behalf of the Authority :-

(1) Every contract shall, on behalf of the Authority, be made by the Chairperson or such other member or such officers of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or classes of contracts as may be specified by the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the State Government may prescribe in this behalf shall be made unless it has been previously approved by the State Government: Provided further that no contract for the acquisition or sale of immovable property, or for the lease of any such property for a term exceeding five years shall be made without the previous approval of the State Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be specified by the regulations.

(3) No contract which is not in accordance with the provisions of this Act and the rules or regulations made thereunder shall be binding on the Authority.

CHAPTER 5 Finance, Accounts and Audit

17. Grants by the State Government to the Authority :-

The State Government may-

(a) provide such fund as may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as the State Government may determine; and

(b) pay to the Authority, on such terms and conditions as the State Government may determine, by way of loans or grants such sums of money as the State Government may consider necessary for the discharge by the Authority of its functions under this Act.

18. Fund of the Authority :-

(1) There shall be a fund for the Authority to be called "The Rajasthan State Bus Terminal Development Authority Fund" to which shall be credited all moneys received by the Authority, including,-

(a) any fund, grant or loan received by the Authority from the State Government;

- (b) such other moneys as may be paid to the Authority by the State Government, Central Government or any other authority or agency by way of grant, loans, advances or otherwise;
 - (c) any rental, fee or user charge collected by the Authority under this Act; and
 - (d) any other sums received by the Authority.
- (2) The fund of the Authority shall be utilized strictly for the purposes of this Act and not otherwise.
- (3) The fund of the Authority shall be administered in such manner as may be prescribed by the rules.

19. Budget :-

- (1) The Authority shall prepare, in such form and at such time as may be prescribed by rules, its budget for each financial year showing estimated receipts and expenditure of the Authority, and forward the same for approval to the State Government.
- (2) No sum shall be expended by or on behalf of the Authority unless the expenditure of the same is covered by the budget provisions approved by the State Government.

20. Investment of funds :-

The Authority may keep in current or deposit account with any Scheduled Bank or any Cooperative Bank or other bank approved by the State Government in this behalf, such sum of money out of its fund as may be determined by the Authority and any money in excess of the said sum shall be invested in such manner as may be determined by the regulations.

21. Borrowing powers of the Authority :-

The Authority may, with the consent of the State Government or in accordance with the terms of any general or special authority given to it by the State Government, borrow money for the purposes of this Act.

22. Annual Report :-

The Authority shall, as soon as may be, after the end of each financial year, prepare and submit to the State Government in such form as may be prescribed by rules a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities which are likely to be undertaken

by the Authority during the current financial year.

23. Accounts and Audit :-

The accounts of the Authority shall be maintained and audited in such manner as the State Government may, in consultation with the Comptroller and Auditor-General of India, prescribe by rules and the Authority shall furnish to the State Government before such date as may be prescribed by rules, its audited copy of accounts together with the auditors report thereon.

24. Annual report and auditors report to be laid before the House of the State Legislature :-

The State Government shall cause the annual report of the Authority and the auditors report to be laid, as soon as may be, after they are received, before the House of the State Legislature.

CHAPTER 6 Offences and Penalties

25. Removal of encroachment and imposition of penalty :-

(1) Any officer authorized by the Authority in this behalf may remove any encroachment from the premises of a notified bus terminal, after giving a reasonable opportunity of being heard to the person concerned, and in doing so he may use reasonable force.

(2) In addition to removal of such encroachment, the officer referred to in sub-section (1) may also impose on the encroacher a penalty not exceeding rupees twenty five thousand and may recover such penalty along with the cost of removal of such encroachment from the encroacher.

26. Penalty for damage and defacement, etc :-

Any officer authorized by the Authority in this behalf may impose on any person who wilfully damages or defaces the premises of a notified bus terminal or any part thereof or any property of the Authority or endangers the safety of buses, vehicles and persons using a notified bus terminal or any facility thereat, a penalty not exceeding rupees twenty five thousand and may recover such penalty along with the cost of restoring the property so damaged or defaced from such person.

27. General provision for punishment of offences :-

Whoever contravenes any of the provisions of this Act or of any rules or regulations made thereunder, if no penalty is provided for such contravention, be liable to pay a penalty to the Authority,-

(a) which may extend to rupees ten thousand, in case of first contravention; and

(b) which shall not be less than rupees two thousand five hundred but which may extend to rupees fifty thousand, in case of second or subsequent contravention.

28. Offence by companies :-

(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

CHAPTER 7 Miscellaneous

29. Delegation of powers by the State Government :-

The State Government may, by notification in the Official Gazette, direct that any power exercisable by it (except the powers conferred by section 37) under this Act shall, subject to such

conditions and limitations, if any, as may be specified in the notification, be exercisable by the Authority or any other authority or by an officer of the State Government or the Authority, as may be specified in the notification.

30. Delegation of powers by the Authority :-

The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except its powers under section 38) as it may deem necessary.

31. Appeal and revision :-

(1) Any person aggrieved by a decision or an order of any officer under this Act may file an appeal within sixty days from the date of communication of such decision or order,-

(a) in case such officer is subordinate to the State Government, to the Secretary incharge of the Transport Department; and

(b) in case such officer is subordinate to the Authority , to the Authority:

Provided that the Secretary incharge of the Transport Department or the Authority, as the case may be, may, if he or it is satisfied that the appellant was prevented by sufficient cause from filing appeal within the said period, allow the appeal to be filed within a further period not exceeding sixty days.

(2) Any person aggrieved by a decision of the Secretary incharge of the Transport Department or the Authority, as the case may be, may file a revision petition before the State Government within ninety days from the date of communication of the decision or order:

Provided that the State Government may, if it is satisfied that the petitioner was prevented by sufficient cause from filing the revision within the said period, allow the revision petition to be filed within a further period not exceeding ninety days.

32. Bar of jurisdiction :-

Save as provided in this Act, no appeal shall lie in any court or other authority and no civil court shall have any jurisdiction in respect of any matter in respect of which the State Government or

the Authority, or any officer of the State Government or the Authority is empowered by or under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act.

33. Conduct of inquiry :-

An officer authorized in this behalf under this Act shall, if he decides to make an inquiry for the purposes of this Act, make an inquiry in such manner as may be prescribed by the regulations.

34. Members, officers and employees of the Authority to be public servants :-

All members, officers and employees of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rules or regulations made thereunder, be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

35. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or regulations made thereunder.

36. Duties of a police officer :-

A police officer shall assist the Authority and its officers and employees in the exercise of their powers or in discharge of their functions under this Act or rules or regulations made thereunder.

37. Power of the State Government to make rules :-

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for -

(a) the salary, allowances and other terms and conditions of service of the non-official members of the Authority under sub-section (2) of section 6;

- (b) the time, place and rules of procedure including the quorum of meetings of the Authority under subsection (1) of section 7;
- (c) the charging and collection of rental, fee or user charges in connection with the services and the facilities to be provided by the Authority under sub-section (2) of section 12;
- (d) the manner of administration of fund of the Authority under sub-section (3) of the section 18;
- (e) the form in which, and the time at which, the budget is to be prepared under section 19;
- (f) the form in which an annual report shall be prepared by the Authority under section 22; and
- (g) the manner of maintaining the accounts of the Authority and the form in which the annual statement of accounts shall be furnished by the Authority under section 23.

38. Power of Authority to make regulations :-

- (1) The Authority may, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-
 - (a) the administrative and functional structure of the Authority under section 10;
 - (b) the salary, allowances and other terms and conditions of service of officers and other employees of the Authority, under sub-section (2) of section 11;
 - (c) terms and conditions of employment of consultant under sub-section (3) of section 11;
 - (d) the contracts or classes of contracts which are to be sealed with the common seal of the Authority, under sub-section (1) of section 16;
 - (e) the form and manner in which contracts shall be made by the Authority, under sub-section (2) of section 16;
 - (f) the manner in which excess money of the Authority shall be invested, under section 20;
 - (g) the manner in which inquiry shall be made under section 33;
 - (h) securing the safety of buses, vehicles and persons using the notified bus terminal and preventing danger to the public arising from the use and operation of buses;
 - (i) preventing obstruction within the notified bus terminal for its

normal functioning;

(j) prohibiting the parking or waiting of any vehicle or carriage within the notified bus terminal except in places specified by the Authority;

(k) prohibiting or restricting access to any part of the notified bus terminal;

(l) preserving order within the notified bus terminal and preventing damage to property etc.;

(m) regulating or restricting advertising within the notified bus terminal;

(n) requiring any person, if so directed by any officer appointed by the Authority in this behalf, to leave the notified bus terminal or any particular part of the notified bus terminal; and

(o) generally for the efficient and proper management, development and upgrade of the notified bus terminal.

(3) Any regulation made under any of the clauses (a) to (o) of subsection (2) may provide that a contravention thereof shall be punishable with such fine not exceeding rupees twenty five thousand as may be specified by such regulations and in case of a continuing contravention with an additional fine not exceeding rupees five hundred per day as may be specified by such regulations for such contravention.

(4) No regulation made by the Authority under this section shall have effect until it has been approved by the State Government and published in the Official Gazette.

39. Rules and regulations to be laid before the House of the State Legislature :-

Every rule and every regulation made under this Act shall be laid, as soon as may be after it is so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or of the sessions immediately following, the House of the State Legislature makes any modification in the rule or regulation or resolves that the rule or regulation should not be made, the rule or regulation, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

40. Recovery of penalty, etc :-

Any penalty, cost or any other amount recoverable under this Act or the regulations made thereunder may, if not paid instantly, be recovered as an arrear of the land revenue on the certificate of an officer of the Authority authorized in this behalf.

41. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification in the Official Gazette, make an order, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty: Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the House of the State Legislature.