

Chaparmukh-Slighat Railway Line and The Katakhal-Lalbazar Railway Line (Nationalisation) Act, 1982

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Act 36 of 1982

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The Chaparmukh-Silghat Railway Company Limited and the Katakhal-Lalabazar Railway Line which are at present being worked and managed by the North-East Frontier Railway, in accordance with the working agreements. As the assets of these two Companies are not efficiently maintained and the Companies are not in a position to rehabilitate them, it has become necessary to acquire the undertakings of the Companies in relation to the aforesaid railway lines for the purpose of continuance of operation of these two lines which is of vital importance to the remote North-Eastern areas of the country and protect the links of communication between the said areas and the rest of the country.- Gazette of India, 7-9-1981, Pt. II, Section 2, Ext., p. 574.[17th August, 1982]Act to provide for the acquisition of the undertakings of the Chaparmukh-Slighat Railway Company Limited, in relation to the Chaparmukh-Silghat Railway Line and the undertakings of the Katakhal-Lalabazar Railway Line with a view to securing the efficient operation of the said Railway lines so as to subserve the needs of the north-eastern areas of India and to protect the links of communication between the said areas and the rest of the country and for matters connected therewith or incidental thereto.WHEREAS the Chaparmukh-Silghat Railway Line owned by the Chaparmukh-silghat Railway Company Limited and the Katakhal-Lalabazar Railway line owned by the Katakhal-Lalabazar Railway Company Limited, are vital communication links between the north-eastern areas of India and the rest of the country;AND WHEREAS the said Railway Lines are integrated with the mete gauge system of the contiguous North-East Frontier Railway;AND

WHEREAS the condition of assets of the aforesaid companies has reached such a stage that it may not be possible to operate train services for long on the railway lines owned by them;AND WHEREAS it is necessary to secure the efficient operation of the said Railway lines;BE it enacted by Parliament in the thirty-third Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title.-

This Act may be called the Chaparmukh-Slighat Railway Line(Nationalisation) and the Katakhal-Lalabazar Railway Line (Nationalisation) Act, 1982.

2. Definitions.-

In this Act, unless the context otherwise requires,-(a)"appointed day" means the day on which this act comes into force;(b)" notification" means a notification published in the Official Gazette;(c)"specified company" means a company specified in clause (d) ;(d)"two specified companies" means,-(i)the Chaparmukh-Slighat Railway Company Limited, being a company as defined in the Companies Act, 1956 (1 of 1956) and having its registered office at 12, Mission Row, Calcutta; and(ii)the Katakhal-Lalabazar Railway Company Limited, being a company as defined in the Companies, act, 1956 (1 of 1956) and having its registered office at Mcleod House, 3, Netaji Subhash Road, Calcutta;(e)"undertakings" means,-(i)in relation to the Chaparmukh-Slighat Railway Company Limited, the Chaparmukh-Slighat Railway Line and all other undertakings of that company relating to that Railway line;(ii)in relation to the Katakhal-Lalabazar Railway Company Limited, the Katakhal-Lalabazar Railway line and all other undertakings of that company relating tot hat Railway line;(f)words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956) shall have the meanings respectively assigned to them in that Act.

Chapter II

Acquisition Of The Undertakings Of The Two Specified Companies

3. Transfer to, and vesting of the Central Government of the undertakings of the two specified companies.-

On the appointed day, the undertakings of each of the two specified companies and the right title and interest of each of the two specified companies in relation to such undertakings shall, by virtue of this Act, stand transferred to, and vest in the Central Government.

4. General effect of vesting.-

The undertakings of each specified company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments machinery, and equipment, cash balances, cash on hand cheques demand drafts, reserve funds, investments, book debts and all other rights and interests in or arising out of such property as were immediately before the appointed day in the ownership, possession power or control of the specified company, whether within or outside India, and all books of account registers, and all other documents of whatever nature relating thereto.(2)All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.(3)For the removal of doubts it is hereby declared that the mortgagee of any property referred to in sub-section (2) or nay other person holding any charge, lien or other interest, in or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests payment of the mortgage money or other dues, in whole or in part, out of the amounts payable under sections 6 and7 to the specified company owning such property, but no such mortgage charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.(4)Any licence or other instrument granted to a specified company in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking and on and from the date of vesting of such undertaking under section 3 in the Central Government, that Government shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to that Government and that Government shall hold it for the remainder of the period for which the specified company would have held it under the terms thereof.

5. Owners of the two specified companies to be liable for certain prior liabilities.-

Every liability of a specified company in respect of any period prior to the appointed day, shall be the liability of the specified company and shall be enforceable against it and not against the Central Government.(2)For the removal of doubts, it is hereby declared that,-(a)no liability of either of the two specified companies in relation to its understandings in respect of any period prior to the appointed day, shall be enforceable against the Central Government:(b)no award, decree or order of any court, tribunal or other authority in relation to the undertakings of either of the two specified companies passed on or after the appointed day, in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government;(c)no liability incurred by a specified company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government.

Chapter III

Payment Of Amount

6. Payment of amount.-

(1) For the transfer to, and vesting in, the Central Government, under section 3, of the right, title and interest of each of the two specified companies in relating to its undertakings, there shall be paid in chase by the Central Government, before the expiry of a period of three months from the appointed day, - (i) to the Chaparmukh-Silghat Railway Company Limited, an aggregate amount of rupees ten lakhs and fifty thousand; and (ii) to the Katakhal-Lalabazar Railway Company Limited, an aggregate amount of rupees nine lakhs. (2) Notwithstanding anything contained in sub-section (1), out of the amount referred to in clause (i) of that sub-section, the Central Government shall deduct, in the first instance, any amount due from the Chaprmukh-Silghat Railway Company Limited to that Government and the liability of that company shall, to the extent of such deduction, stand discharged and such deduction shall have priority over all other debts, secured or unsecured. (3) Notwithstanding anything contained in sub-section (1), out of the amount referred to in clause (ii) of that sub-section, the Central Government shall deduct, in the first instance, the amount due from the Katakhal-Lalabazar Railway Company Limited in respect of the secured debentures issued by that company and shall pay the sums so deducted for the redemption of such debentures shall, to the extent of such deduction, stand discharged and such deduction shall have priority over all other debts, secured or unsecured.

7. Interest.-

The amount referred to in clause (i) or clause (ii) of sub-section (1) of section 6 as reduced by the deduction under that section, shall, if not paid to the company concerned before the expiry of the period specified in the said sub-section, carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount as so reduced is made by the Central Government to that company: Provided that if the amount as so reduced is tendered to the specified company but not accepted by it, no interest shall run from the date of such tender.

Chapter IV

Duty Of Persons In Charge Of Management Of The Undertakings Of The Two Secified Companies To Deliver All Assets, Etc.

8. Duty of persons in charge of management of the undertakings of the two specified companies to deliver all assets, etc.-

On the vesting of the undertakings of the two specified companies in the Central Government, all persons in charge of the management of the undertakings immediately before such vesting, shall be

bound to deliver to the Central Government all assets, books of account, registers or other documents in their custody relating to the undertakings.

9. Duty of persons to account for assets, etc., in their possession.-

(1) Any person who has, on the appointed day, in his possession or under his control any assets, books, documents or other papers relating to any undertaking owned by a specified company which have vested in the Central Government and which belong to the specified company, or would have so belonged, if the undertakings owned by the specified company had not vested in the Central Government, shall be liable to account for the said assets, books, documents and other papers to the Central Government and shall deliver them up to the Central Government or to such person or persons as the Central Government may specify in this behalf. (2) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the two specified companies which have vested in the Central Government under this Act. (3) The two specified companies shall within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all their properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under section 3 and, for this purpose, the Central Government shall afford to the two specified companies all reasonable facilities.

Chapter V

Miscellaneous

10. Act to have overriding effect.-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

11. Penalties.-

Any person who, - (a) having in his possession, custody or control any property forming part of any undertaking of either of the two specified companies, wrongfully withholds such property from the Central Government; or (b) wrongfully obtains possession of, or retains any property forming part of any undertaking of either of the two specified companies; or (c) wilfully withholds or fails to furnish to the Central Government or any person or persons specified by that Government any document relating to such undertaking, which may be in his possession, custody or control; or (d) fails to deliver to the Central Government or any person or persons specified by that Government, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of either of the two specified companies; or (e) wrongfully removes or destroys any property forming part of any undertaking of either of the two specified companies or prefers any claim which he knows or has reason to believe to be false or grossly inaccurate, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten

thousand rupees, or with both.

12. Offences by companies.-

(1)Where an offence under this Act has been committed by a company, every person who, at the time of the offence was committed, was in charge 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, 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 any 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, vance 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 be deemed to be guilty of that 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.

13. Protection of action taken in good faith.-

(1)No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or any officer or other person authorised by that Government for anything which is in good faith done or intended to be done under this Act.(2)No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or any officer or other person authorised by that Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

14. Delegation of powers.-

(1)The Central Government may, by notification direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section and section 15 and 16 may also be exercised by such person or persons as may be specified in the said notification.(2)Whenever any delegation of power is made under sub-section (1) , the person to whom such power has been delegated shall act under the direction, control, and supervision of the Central Government.

15. Powers to make rules.-

(1)The Central Government may, by notification make rules for carrying out the provisions of this Act.(2)Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty

days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule 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 under that rule.

16. Power to remove difficulties.-

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order not inconsistent with the provisions of this Act, remove the difficulty; Provided that no such order shall be made after the expiry of a period of two years from the appointed day.