

Bihar Integrated Check-Post Authority Act, 2011

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Act 9 of 2011

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Bihar Integrated Check-Post Authority Act, 2011[Bihar Act 9 of 2011]Last Updated 1st February, 2020[Dated 27.05.2011]Preamble. - An Act to provide for the establishment of the Integrated Check-Post Authority of Bihar for governing and managing the functioning of Integrated Check-Posts for the Department of Commercial Taxes, Environment & Forest, Transport, Excise and Mining, at specified points along the borders of the State of Bihar and other allied matters connected there with or incidental thereto pertaining to the concerned departments.Be it enacted by the Legislature of the State of Bihar in the sixty-second year of the Republic of India as follows: -

1. Short title, Extent and commencement.

(1)This Act may be called the Bihar Integrated Check-Post Authority Act, 2011.(2)It is applicable to all the Integrated Check-Posts set by the Government of Bihar at the border with other neighbouring states of Bihar and all the Integrated Check-Posts set by the Government of Bihar within the State.(3)It shall come into force on such date as the Government may, by notification in the Official Gazette appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Appointed day" means, the date with effect from which, the authority is established under sub-section (1) of Section 3, by notification issued by the State and Published in the Official Gazette.(b)"Authority" means the Integrated Check-Post Authority of Bihar established under sub-section (1) of Section 3;(c)"Chairman" means the Chairman of the Authority appointed under clause (a) of sub-section (3) of Section 3;(d)"Integrated Check-post" means any border posts or any other than border posts, as the State Government may, by notification in the Official Gazette, specify;(e)"Notification" means a notification published in the Official Gazette of Government of Bihar;(f)"Prescribed" means prescribed by rules made under this Act;(g)"Regulations" means regulations made by the Authority under this Act;(h)"Government" means Government of Bihar;(i)Words and expressions used and not defined in this Act but defined

in the Bihar Value Added Tax Act, 2005, Central Sales Tax Act, Bihar Entry Tax Act, Bihar Excise Act, Bihar Motor Vehicle Rules, Indian Forest Act, 1927, Wild Life (Protection) Act, 1972 and such other Acts that pertain to Forest Conservation and Protection, Bihar Mines and Minerals (Development and Regulation) Act, 1957, Bihar (Minerals Prevention of Illegal Mining, Transportation and Storage) Rules, 2003, Bihar Minor Mineral Concession Rule, 1972, Income Tax Act, 1961, Companies Act, 1956 or the Rules framed thereunder shall have the meanings respectively assigned to them under those Acts.

3. Constitution of Authority.

(1) Commencing with effect from such date as the Government of Bihar may, by notification appoint, there shall be established, for the purposes of this Act, an Authority to be called the Integrated Check-Post Authority of Bihar. The Finance Department of the Government of Bihar will have administrative control over the said Authority. (2) The Authority shall be known 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 shall, by the said name, sue or be sued. (3) The Authority shall be constituted consisting with the following: - (a) Principal Secretary, Finance Department, Govt, of Bihar who shall be the ex officio Chairman of the Authority. (b) A Member (Planning and Development) and Member (Finance). (c) Not less than two, but not exceeding ten members, Ex-officio, to be appointed by the Government of Bihar amongst the officers, not below the rank of the Head of Department to the Government of Bihar, representing the Departments dealing with Finance, Commercial Taxes, Environment and Forest, Transport, Excise, Mines and Home. (d) Not more than two members appointed by the Government amongst the persons with professional expertise on matters pertaining to operation, administration and facilitation of the check-post. (e) A Member Secretary-cum-Chief Executive Officer. (f) Not more than two members from trade and industry. (4) The Authority shall have its head office at Patna, Bihar.

4. Term of Office, conditions of service, etc. of Chairman and other members.

(1) The Chairman and Other members shall be appointed by Government of Bihar and shall hold office for the period specified by the notification : Provided that the Government may terminate at any time the appointment of Chairman and any member. (2) The salary and allowances payable to and the other terms and conditions of service of the Chairman and other members shall be such as may be prescribed. (3) The salary, allowances and other conditions of service of the Chairman or of a member shall not be revised to their disadvantage after their appointment. (4) A vacancy caused to the office of the Chairman or any other member shall be filled up within a period of three months from the date on which such vacancy occurs.

5. Meetings of the authority.

(1) The Authority shall meet at such times and places, and shall observe such rules of procedure with regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided in the Rules. (2) If for any reason, the Chairman is unable to attend any meeting of the

Authority; any other member chosen by members present at the meeting shall preside over the meeting.

6. Officers and other employees of Authority.

(1) For the purpose of proper and effective discharge of its functions under this Act, the Authority shall have the power to avail the services of officers and other employees on deputation from member departments with the approval of government. (2) Every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined. (3) All officers and employees of Authority shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule made there under, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

7. Functions of Authority.

(1) Subject to the provisions of this Act, the Authority shall have powers to establish and manage the facilities of integrated check-posts for tracking goods and vehicles at designated points along the interstate borders and within the State of Bihar. (2) Notwithstanding anything contained in sub-section (1), the Authority may: - (a) plan, construct and maintain roads, terminals and ancillary buildings in order to ensure the smooth functioning of an integrated check-post, other than National Highways and Railways; (b) plan, procure, install and maintain communication, security, goods handling and scanning equipment at an integrated check-post; (c) provide appropriate space and facilities for parking zones, cargo and goods examination yards, warehouses, banks, communication facilities, waiting halls, rest-rooms, telephone facilities, canteen, refreshment stalls, public conveniences, health services and such other services, as may be deemed necessary; (d) construct residential buildings for its employees as well as residential accommodation for staff deployed at integrated check-posts; (e) co-ordinate and facilitate the working of agencies, firms and individuals who have been engaged by it for the operation and maintenance of various services and facilities at the integrated check-posts in accordance with the respective contractual provisions, for the time being in force; (f) co-ordinate and facilitate the working of various Departments of Government of Bihar, who have been engaged at the integrated check-posts to undertake various activities and discharge duties under respective laws, for the time being in force; (g) take all such steps as may be necessary or expedient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act; (h) undertake any other activity at the integrated check-post in the best commercial interests of the Authority. (i) seek assistance of State Police to ensure peace and security at an integrated check-post. (3) In the discharge of its functions under this section, the Authority may consult such Ministry or Department of the Government of India or of the State Government as it deems necessary, and shall have due regard to the development of integrated check-posts and to the efficiency, economy and safety of such service. (4) The Authority may exercise, on and from the appointed day all such jurisdiction, powers and authority as were exercisable immediately before that date on any matter in relation to: - (a) technical compatibility and operational compatibility between various departments of Government of Bihar providing services at the check-posts; (b) service recipients like general public and services provided by various department / ministry through the integrated check-post; (c) compatibility between various external

service providers and service recipients like government departments operating at the check-post and general public,(d)cost sharing arrangements between different departments/Ministries(5)Nothing contained in this section shall be construed as -(a)authorising the disregard by the Authority of any law for the time being in force, or(b)authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject to.

8. Assets and liabilities to vest in Authority.

(1)On the date of notification issued under clause (1) of Section 3, all such assets, rights, powers, authorities and privileges and such property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, losses and book debts and all other rights and interests arising out of such property, as immediately before the issue of that notification, were in the ownership or possession of the existing check-posts of any of the departments of Government of Bihar, as the State Government may, in such notification, specify, shall vest in the Authority and such vesting shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting.(2)The notification under sub-section (1) shall be issued only after the concurrence of the concerned departments of the Government of Bihar, in case where such properties are owned or controlled by such departments.(3)All contracts, agreements and working arrangements prevailing immediately before the date of notification issued under clause (1) of Section 3, shall continue to be enforced.

9. Mode of executing contracts on behalf of Authority.

(1)Subject to the provisions of this section, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act(2)Every contract on behalf of the Authority shall be made by the Chairman or such officer of the Authority who may be generally or specially empowered in this behalf by the Authority and such contracts as may be specified, in the rules, shall be sealed with the common seal of the Authority;(3)Subject to the provisions of sub-section (2), the form and manner in which any contract shall be made under this Act shall be such as may be prescribed.(4)Any contract which is not in accordance with the provisions of this Act and the Rules made thereunder shall not be binding on the Authority.

10. Power of Authority to charge fees, rent, etc.

- The Authority may with the previous approval of Government, determine and charge such fees or rent, not being a statutory levy under any other Act, as may be provided by regulations, separately for each integrated check-post for the parking of vehicles, warehousing of seized goods, or for any other service or facility offered in connection with the operations of the check-post.

11. Additional Receipts.

- The Finance Department may through annual budgetary allocations provide funds to the Authority by way of grants, loans, etc. for creation, operation and maintenance of various facilities and services at the check-post.

12. Fund of Authority and its investment.

(1)The Authority shall have the power to establish its own fund and all receipts of the Authority shall be credited thereto and all payments by the Authority shall be made therefrom.(2)Subject to the provisions of this Act, the Authority shall have the power to spend such sums as it thinks fit to cover all administrative expenses of the Authority or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.(3)All moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be -(a)deposited in the State Bank of India or any such Scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Government;(b)invested in the securities of the Government or in such manner as may be prescribed.

13. Allocation of surplus funds.

(1)The Authority may, from time to time, set apart such amounts as it thinks fit, as a reserve fund or funds for the purpose of expanding existing facilities or services or creating new facilities or services at any integrated check post or for purposes of replacement or meeting expenditure arising from loss or damage due to any natural calamity or accident or meeting any liability arising out of any act of omission or commission in the discharge of its functions under this Act:Provided that the Authority shall also have the power to establish specific reserve fund for specific purposes;Provided further that the sums set apart annually in respect of each or any of the specific and general reserve fund and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Government.(2)After making provision for such reserve fund or funds and for bad debts, depreciation in assets and all other matters as are usually provided for by companies registered and incorporated under the Companies Act, 1956, the Authority shall pay the balance of its annual net profits to the consolidated fund of the Government.

14. Accounts and audit.

- The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet. This shall be audited as per rules framed under the Act.

15. Delegation.

- The Authority may, by general or special order in writing, delegate to the Chairman 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 the powers under Section 22) as it may deem necessary.

16. Authentication of orders and other instruments of Authority.

- All orders and decisions of the Authority shall be authenticated by the signature of the Chairman or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

17. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other 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 rule or regulation made thereunder.

18. Custody and disposal of confiscated/unclaimed property.

- Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and disposal of any property thereby giving valid title to the person who has purchased it, which is confiscated under any provision of law or is found unclaimed lying on any premises belonging to the Authority.

19. Power of Government to supersede Authority.

(1) If, at any time, the Government is of opinion - (a) that the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or (b) that the Authority has persistently defaulted in complying with any direction issued by the Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of default the financial position of the Authority or the administration of an integrated check-post has deteriorated; (c) that circumstances exist which render it necessary in the public interest so to do, the Government may by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification. (2) Upon the publication of a notification under sub-section (1) superseding the Authority - (a) Chairman and all other members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Government may direct; and (c) all property owned or controlled by the Authority shall, until the Authority is

reconstituted under sub-section (3), vest in the Government.(3)On the expiration of the period of supersession specified in the notification issued under sub-section (1), Government may -(a)extend the period of supersession for such further term not exceeding six months, as it may consider necessary, or(b)reconstitute the Authority by fresh appointment and in such case the Chairman and other members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:Provided that the Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.(4)The Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before the Legislature at the earliest opportunity.

20. Power of Government to issue directions.

(1)Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such direction on questions of policy as the Government may give in writing to it from time to time;Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.(2)The decision of the Government, whether a question is one of policy or not shall be final.(3)The Government may, from time to time issue directions to the Authority regarding the discharge of any functions by it under the clauses of sub-section (2) of Section 7 and the Authority shall be bound to comply with such directions.

21. Power to make rules.

(1)The 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 other conditions of service of Chairman and other members of the Authority under sub-section (2) of Section 4;(b)the manner in which the Authority may invest the funds under clause (b) of sub-section (3) of Section 12;(c)any other matter which is to be, or may be, prescribed.

22. Power to make regulations.

(1)The Authority may, with the previous approval of the Government, make regulations not inconsistent with this Act and the Rules made thereunder for the purpose of giving effect to the provisions of this Act.(2)Without prejudice to the generality of the foregoing power, such regulations may provide for-(a)the time and places of meetings of the Authority and the procedure to be followed for transaction of business including the quorum at such meetings under sub-section (1) of Section 5;(b)the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of Section 6;(c)the contracts which are to be sealed with the common seal of the Authority under sub-section (1), and the form and manner in which a contract may be made by the Authority under sub-section (3) of Section 9;(d)the fees and rent to be charged by the Authority under sub-section (1) of Section 10;(e)the custody and restoration of lost

property and the terms and conditions under which lost property may be restored to the persons entitled thereto under Section 18.

23. Rules, Regulations and Notifications to be laid before the Legislature.

- Every rule and every regulation made or notification issued under this Act shall be laid, as soon as may be after it is made, before the Legislature, while it is in session, for a total period of fourteen 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 or the successive sessions aforesaid, Legislature agree in making any modification in the rule, or notification, as the case may be, or agree that the rule, regulation or notification, as the case may be, should not be made or issued, the rule, regulation or notification 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, regulation or notification.

24. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as 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 a period of two years from the date of the commencement of this Act. (2) Every order made under this section shall, be laid before the Legislature.

25. Resolution of Disputes.

- If a dispute arises, in respect of matters referred to in Section 7 sub-section (2), among departments of Government of Bihar providing services or between outsourced agencies providing various facilities and services at the check-post or service recipients like general public, such disputes shall be adjudicated by the Authority.