

The Lowis Jubilee Sanitarium (Acquisition) Act, 1986

WEST BENGAL

India

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Act 11 of 1986

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The Lowis Jubilee Sanitarium (Acquisition) Act, 1986 West Bengal Act 11 of 1986 [13th April, 1986.] Assent of the President of India was first published in the Calcutta Gazette, Extraordinary, dated the 13th April, 1986. An Act to provide for the acquisition of the Lowis Jubilee Sanitarium at Darjeeling, and for matters connected therewith or incidental thereto. Whereas it is expedient in the public interest to provide for the acquisition of the Lowis Jubilee Sanitarium at Darjeeling for the purpose of ensuring better facilities for board and lodging to the members of the public in general, and to the tourists in particular, for development and improvement of the Sanitarium and for matters connected therewith or incidental thereto; And Whereas under article 300A of the Constitution of India, no person shall be deprived of his property save by authority of law; It is hereby enacted as follows:-

1. Short title and commencement.

(1) This Act may be called the Lowis Jubilee Sanitarium (Acquisition) Act, 1986. (2) It shall be deemed to have come into force on the 16th day of February, 1986.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a) "date of vesting" means the 16th day of February, 1986; (b) "Lowis Jubilee Sanitarium" means the Sanitarium established under the name and style of the Lowis Jubilee Sanitarium on the 1st day of September, 1887, at Darjeeling and shall be deemed to include-(i) all assets and properties (movable or immovable) including valuable securities, lands, buildings, works, materials, plants, power house, stores, instruments, machineries, vehicles of any kind, cash balances, deposits to its credit in any bank, cash in hand, reserve funds, investments and book debts and all other rights and interests arising out of such assets and properties as were immediately before the date of vesting in the ownership of the Sanitarium, (ii) its books of accounts, registers, records and all other documents of whatever nature relating to it including documents of title, and (iii) all rights, lease-holds, power, authorities and privileges,

borrowings, obligations and liabilities of whatever nature owned or incurred by, or subsisting in respect of, the Sanitarium;(c)"notification" means a notification published in the Official Gazette;(d)"prescribed" means prescribed by rules made under this Act;(e)"the Sanitarium" means the Lowis Jubilee Sanitarium.

3. Acquisition of the Sanitarium.

- On and from the 16th day of February, 1986, the Sanitarium shall, by virtue of this Act, stand transferred to, and vest absolutely in, the State Government.

4. General effect of vesting.

(1)The Sanitarium which has vested in the State Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court, tribunal, or other authority restricting the use of the whole or any part of the Sanitarium in any manner shall be deemed to have been withdrawn.(2)Any contract, whether express or implied, or, other arrangement whether under any statute or otherwise, in so far as it relates to the affairs of the Sanitarium and in force immediately before the date of vesting shall be deemed to have terminated on the date of vesting.(3)Where any licence or other instrument in relation to the Sanitarium had been granted at any time before the date of vesting to the Sanitarium by the Central Government or the State Government or any other authority, the State Government shall, on and from the date of vesting, be deemed to be substituted in such licence or other instrument in place of the Sanitarium referred to therein as if such licence or other instrument had been granted to it.(4)Any liability incurred by the Sanitarium (including the liability, if any, arising in respect of any loans or amounts advanced by the State Government to the Sanitarium together with interest thereon) after the management of the Sanitarium had been taken over by the State Government, shall, on and from the date of vesting, be the liability of the State Government.(5)If, on the date of vesting, any suit, appeal or other proceeding of whatever nature in relation to any matter or business in respect of the Sanitarium, instituted or preferred by or against the Sanitarium, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the Sanitarium or of anything contained in this Act, and the suit, appeal or other proceeding, may be continued, proceeded with and enforced by or against the State Government.(6)Any person in possession or custody or control of the whole or any part of the Sanitarium on the date immediately before the date of vesting shall, on the date of vesting, deliver the possession of the Sanitarium or part thereof to the State Government or to such person as may be specified by the State Government in this behalf.(7)The State Government may take, or cause to be taken, such steps as it considers necessary for securing the possession of the Sanitarium which has vested in the State Government under section 3.

5. Acquisition without compensation.

- For the removal of doubts, it is hereby declared that there shall not be paid any compensation for the acquisition of the Sanitarium by authority of this Act under article 300A of the Constitution of

India.

6. Penalty.

(1) Any person who, - (a) having in his possession, custody or control any property forming part of the Sanitarium, wrongfully withholds such property from the State Government or any person authorised by that Government in this behalf, or (b) wrongfully obtains possession of, or retains any property forming part of the Sanitarium or wilfully withholds or fails to furnish to the State Government or any person authorised by that Government any document relating to the Sanitarium which may be in his possession, custody or control or fails to deliver to the State Government or any person authorised by that Government any assets, books of account, registers or other documents in his custody relating to the Sanitarium, or (c) wrongfully removes or destroys any property forming part of the Sanitarium or prefers any claim under this Act 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 five thousand rupees, or with both: Provided that the court trying any offence punishable under this Act shall, at the time of convicting the accused person, order him to deliver or refund within such time as may be fixed by the Court such property or any part thereof wrongfully withheld or wrongfully obtained or retained or such document wilfully withheld or not furnished or such assets, books of account, registers or other documents not delivered. (2) No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the State Government or of an officer authorised by that Government in this behalf.

7. Employees to continue in service.

(1) Every person (not being a part-time or over-aged employee) who has been an employee of the Sanitarium immediately before the date of vesting shall, on and from the date of vesting, become an employee of the State Government and shall hold office or service under the State Government on the same terms and conditions as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the State Government is duly terminated or until within six months from the date of vesting his remuneration and other conditions of service are duly altered by the State Government: Provided that any employee who is unwilling to continue in service in terms of the provisions of this sub-section may give three month's notice to the State Government to that effect and thereupon his service shall stand terminated with effect from the date immediately after the expiration of three months from the date of such notice. (2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee of the Sanitarium to the State Government shall not entitle him to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

8. Priority of claims.

- The claims arising out of the-(a)wages, salaries and other dues payable to the employees by the Sanitarium,(b)deductions made from the salaries and wages of the employees for provident fund, the Employees' State Insurance Fund and premium relating to the Life Insurance Corporation of India, and(c)arrears in relation to contributions to be made by the Sanitarium to provident fund, the Employees' State Insurance Fund, premium relating to the Life Insurance Corporation of India and any other arrear under any law for the time being in force,shall have precedence over all other liabilities of the Sanitarium.

9. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government or any officer 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.

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 in any instrument having effect by virtue of any law other than this Act, or in any judgment, decree or order of any court, tribunal or other authority.

11. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed.

12. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State 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 date of coming into force of this Act.

13. Repeal and saving.

(1)The Lowis Jubilee Sanitarium (Acquisition) Ordinance, 1986 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been validly done or taken under this Act.