

The Darjeeling Ropeway Company Limited (Acquisition Of Undertaking) Act, 1976

WEST BENGAL

India

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Act 48 of 1976

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The Darjeeling Ropeway Company Limited (Acquisition Of Undertaking) Act, 1976 West Bengal Act 48 of 1976 [9th November, 1976.] Assent of the President was published in the Calcutta Gazette, Extraordinary, dated the 9th November, 1976. An Act to provide for the acquisition, for public purpose, of the undertaking of the Darjeeling Ropeway Company Limited with a view to securing the proper administration and management thereof for the purpose of ensuring efficient operation of the ropeway service between Darjeeling and Bijanbati for carrying goods and merchandise so that the interests of the general public may be better served and for matters connected therewith or incidental thereto. Whereas it is expedient to provide for the acquisition, for public purpose, of the undertaking of the Darjeeling Ropeway Company Limited with a view to securing the proper administration and management thereof for the purpose of ensuring efficient operation of the ropeway service between Darjeeling and Bijanbati for carrying goods and merchandise so that the interests of the general public may be better served and for matters connected therewith or incidental thereto; It is hereby enacted as follows:-

1. Short title. -

This Act may be called the Darjeeling Ropeway Company Limited (Acquisition of Undertaking) Act, 1976.

2. Definitions. -

In this Act, unless the context otherwise requires, - (a) "appointed day" means such date as the State Government may, by notification, appoint; (b) "company" means the Darjeeling Ropeway Company Limited, being a company as defined in the Companies Act, 1956, having its registered office at 10, Clive Row, Calcutta-1; (c) "notification" means a notification published in the Official

Gazette;(d)"undertaking", in relation to the company, means the properties and assets of the company referred to in sub-section (1) of section 4.

3. Undertaking of the company to vest in the State Government. -

On and from the appointed day, the undertaking of the company shall, by virtue of this Act, stand transferred to, and vest in, the State Government free from all encumbrances.

4. General effect of the vesting. -

(1)The undertaking of the company shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, including lands, building, machineries, plants and equipments, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such properties as were, immediately before the appointed day, in the ownership, power or control of the company in relation to the undertaking and all books of account, registers and all other documents of whatever nature relating thereto but does not include any amount recoverable by the company from its debtors.(2)Any contract, whether express or implied, or other arrangement, whether under any statute or otherwise, in so far as it relates to the management of the business and affairs of the company in relation to its undertaking and in force immediately before the appointed day shall be deemed to have terminated on the appointed day.(3)All persons in charge of the management, including managers or any other personnel connected with the management of the company immediately before the appointed day, shall cease to deal with the management on and from the appointed day.(4)The State Government may take or cause to be taken all necessary steps for securing the possession of all properties of the undertaking which have vested in the State Government under section 3.

5. Management of the undertaking. -

The undertaking which has vested in the State Government under section 3 shall be managed by such person or body of persons as may be appointed by the State Government in this behalf and such person or body of persons shall carry on the management in accordance with such rules as may be made by the State Government.

6. Power of the State Government to direct vesting of the undertaking in a corporation. -

(1)Notwithstanding anything contained in sections 3, 4 and 5, the State Government may, by order in writing, direct that the undertaking of the company together with all its properties and assets, specified in sub-section (1) of section 4, shall, instead of continuing to vest in the State Government, vest in such corporation owned or controlled by the State Government (hereinafter referred to as the corporation) and on such date, as may be specified in the direction.(2)When an order vesting the undertaking of the company in a corporation is made under sub-section (1), all the rights, liabilities and obligations of the State Government in relation to the undertaking of the company shall, on the

from the date of such vesting, be deemed to have become the rights, liabilities and obligations, respectively, of such corporation.(3)The corporation shall, for the purpose of management and administration of the undertaking of the company, act in accordance with such direction, if any, as may be issued by the State Government in this behalf.(4)The corporation may also apply to the State Government at any time for instructions as to the manner in which the management of the undertaking of the company or in relation to any matter arising in the course of such management shall be conducted.

7. Employment of certain employees to continue. -

(1)Every person who is a workman within the meaning of the Industrial Disputes Act, 1947, and has been immediately before the appointed day, in the employment of the company shall become an employee of the State Government on and from the appointed day or, as the case may be, of the corporation in which the undertaking may be vested by an order under sub-section (1) of section 6 on and from the date of vesting in the corporation, and shall hold office on the same terms and conditions as would have been admissible to him if the undertaking of the company had not vested in the State Government or in such corporation, as the case may be, and shall continue to do until his employment is duly terminated or until the terms and conditions of his service are duly altered by the State Government or such corporation, as the case may be, by rules made in this behalf:Provided that the services of every person who expresses his unwillingness to continue in service in terms of the provisions of this sub-section shall stand terminated with effect from the appointed day or from any subsequent date to be notified by him.(2)Notwithstanding anything contained in any law for the time being in force or in any contract, custom or usage, to the contrary, the transfer of the service of any employee of the company to the service of the State Government or of such corporation, as the case may be, shall not entitle such employee to any compensation on any account whatsoever and no claim in this behalf shall be entertained by any Court, tribunal or other authority.

8. Amount to be paid for vesting of the properties. -

For the vesting of the undertaking in the State Government under section 3, there shall be paid by the State Government to the company an amount of rupees twenty thousand.

9. Duties to furnish particulars. -

The company shall within such period as the State Government may allow in this behalf furnish to the State Government or to the corporation a complete inventory of all the properties and assets of the company as on the appointed day pertaining to the undertaking which has vested in the State Government under section 3.

10. Penalties. -

(1)Any person, who-(a)having in his possession, custody or control any property forming part of the

undertaking of the company, wrongfully withholds such property from the State Government or the corporation; or (b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the State Government or in the corporation under this Act; or (c) wilfully withholds or fails to furnish to the State Government or the corporation, any document which may be in his possession, custody or control; or (d) wilfully fails to furnish an inventory as required under section 9; 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: Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund, within a time to be fixed by the court, any property or cash wrongfully withheld or obtained or any document wilfully withheld or not furnished. (2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the State Government or an officer authorised by the Government in this behalf.

11. Act to have overriding effect. -

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

12. Protection of action taken in good faith. -

(1) No suit, prosecution or other legal proceeding shall lie against the State Government or the corporation or any of its officers or other employees 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 State Government or the corporation or any of its officers or other employees 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.

13. Power to make rules. -

The State Government may, by notification, make rules for carrying out the purposes of this Act.