

Chhattisgarh State Rajmarg Adhiniyam, 2003

CHHATTISGARH

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Act 12 of 2003

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Chhattisgarh State Rajmarg Adhiniyam, 2003 No. 12 of 2003 Received the assent of the Governor on the 25th May, 2003, assent first, published in C.G. Rajpatra (Asadharan), dated 27-5-2003, pages 258 (52-77). An Act to provide for the restriction of ribbon development along highways in prevention and removal of encroachment thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters, and to provide for the public such conditions as to ensure safety and maximum efficiency of all road transport of highways in the Chhattisgarh State. Be it enacted by the Chhattisgarh Legislature in the Fifty-fourth Year of the Republic of India as follows :

Chapter I Preliminary

1. Short title, extent and commencement.

- (i) This Act may be called the Chhattisgarh State Rajmarg Adhiniyam, 2003. (ii) It shall extend to whole of the Chhattisgarh State. (iii) 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 there is anything repugnant in the subject or context:- (a) "animal" means any domestic or captive animal; (b) "building" includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, door steps, walls (including compound walls and fences), advertisement boards and the like; (c) "building line" means a line on either side of any highway or part of a highway fixed in respect of such highway or part thereof by a notification issued under sub-section (1) of Section 12; (d) "Collector" means the Collector of a district and includes an officer specially appointed of the

State Government to perform the functions of a Collector under this Act;(e)"Control line" means a line on either side of any highway or part of a highway beyond the building line fixed in respect of such highway or part by a notification under sub- section (1) of Section 12;(f)"Court" means a principal Civil Court of original jurisdiction, unless the State Government has appointed a special judicial officer within any specified local limits to perform the functions of Court under this Act;(g)"Competent authority" means the State Government or a local authority or any officer of the State Government or a local authority as notified by the State Government as such authority to sanction the construction or repair of a highway;(h)"to erect" with its grammatical variations in relation to a building means to construct, reconstruct, extend or after structurally a building;(i)"excavation" in relation to any piece of land does not include any workings which do not pierce the surface of that piece of land; but includes well and tank;(j)"encroachment" means occupation of any highway or a part thereof and includes :-(i)the erection of a building or any other structure, balconies, porches, chhajjas or projections on or overhanging the highway land,(ii)occupation of highway beyond the prescribed period, if any, for stacking building materials or goods of any other description for exhibiting articles for sale or erecting poles, awnings, tents, pandals and other similar erection or for parking vehicles or stabling domestic animals or for any other purposes, and(iii)excavation of embankments of any kind made or extended on any highway land;(k)"highway" means any road or way over which the public have a right of way or are granted access and which is declared to be a highway under Section 3. The expression includes :-(i)any land acquired or demarcated with a view to construct a highway along it;(ii)the slopes, berms, borrowpits, footpaths, pavements and side catch and boundary drains attached to such road or way;(iii)all bridges, culverts, causeways, carriageways and other structures, built on or across such road or way; and(iv)the trees, fences, posts, boundary, furlong and kilometre stones, and other highway accessories and material and material stacked on the road or way;(l)"highway authority" means the authority appointed as such or to which the functions of such authority are entrusted under Section 4;(m)"highway boundaries" means the boundaries of a highway fixed, in respect of such highway, by notification issued under subsection (1) of Section 12;(n)the expression "land", "person interested" and "person entitled to act" used in this Act shall have the same meaning as the said expression have in the Land Acquisition Act, 1894;(o)"occupier" includes :-(i)any person who for the time being is paying or is liable to pay to the owner rent or any portion of the rent of the premises in respect of which such rent is paid or is payable;(ii)an owner living in or otherwise using his premises;(iii)a rent free tenant;(iv)a licensee in occupation of any premises; and(v)any person who is liable to pay to the owner damages for the use and occupation of any premises;(p)"Owner" means :-(a)when used with reference to any premises, the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let and includes;(i)an agent or trustee who receives the rent, or is entrusted with or concerned for, any premises devoted to religious or charitable purposes;(ii)an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes;(iii)a receiver, sequester or manager appointed by any Court of competent jurisdiction; and(iv)a mortgagee-in-possession;(b)when used with reference to an institution or by body corporate, the manager of institution or body corporate;(q)"prescribed" means prescribed by rules made under this Act.(r)"Public place" means a road, street, way or other place whether a throughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a public vehicle;(s)"Public vehicle" means any vehicle used or adapted to

be used for the carriage of passengers or goods for hire or reward.(t)"means of access" includes any means of access, whether private or public, for vehicles or for foot passengers and includes any street;(u)"middle of highway" means the point halfway between the highway boundaries;(v)"survey" includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of boundary and includes resurvey;(w)"survey mark" means any mark or object erected, made, employed or specified by a Survey Officer to indicate or determine or assist in determining the position or level of any point or points;(x)"Survey Officer" means any person appointed to be a Survey Officer under this Act.

Chapter II

Declaration of Highways, Highway Authorities and their Powers and Functions

3. Declaration of roads, ways of lands as highways.

- The State Government may, by notification in the official Gazette, declare any road, way or land to be a highway and classify it as :- (i) an express highway, (ii) a state highway, (iii) a major district road, (iv) other district road, (v) a village road.

4. Appointment of Highway Authorities.

- The State Government may, by notification in the Official Gazette, appoint for the purposes of this Act or any of the provisions, official of the State Government, or any Authority to be a Highway Authority for all the highways in the State or in part of the State or for any other particular highway or highways in the State, specified in the notification.

5. Powers and duties of Highway Authorities.

- Subject to such conditions as may be specified in the notification appointing a Highway Authority and subject to the general or special orders of the State Government, a Highway Authority shall exercise power and discharge duties in accordance with the provisions of this Act for the restriction of ribbon development along highways for prevention and removal of encroachments as for all matters necessary and incidental to any or all of the above subjects. Also subject the approval of the State Government and to such general or special orders which the State Government may make in this behalf, it shall be lawful for a Highway Authority to undertake the construction, maintenance, development or improvement of highways.

Chapter III

Development and Maintenance of Highways

6. Power to enter land for reconnaissance and preliminary survey in connection with highway scheme.

- The Highway Authority or any officer not below the rank of Sub-Engineer of Public Works Department or local body or any person authorised by the Highway Authority in this behalf may for the purpose of carrying out of the provisions of this Act.(a)enter upon any land alongwith his workmen and survey and take measurements and levels on it;(b)mark such levels, dig or bore into the subsoil and do all other acts necessary to ascertain whether the land is suitable or not;(c)set out the boundaries of the proposed Highway by placing marks and cutting trenches;(d)cut down and clear any part of standing crop, fence etc. where otherwise survey cannot be completed and the levels taken and the boundaries marked and,(e)do all other acts necessary in this behalf :Provided that no person shall enter into any building or any closed Court of garden attached to a dwelling house or cut down and clear any part of standing crops, fence etc. without the consent of the occupier thereof or without giving such occupier at least than fifteen days notice in writing of his intention to do so.(2)The Highway Authority or the authorised official shall, at the time of such entry pay or tender payment for all necessary damages to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, shall within a period of seven days, refer the dispute and deposit offered amount if not accepted, for the decision to the Collector of the district and his decision shall be final.

7. Preparation of scheme for highway development.

- The Highway Authority of its own accord or if expressly requested by the Competent Authority shall, subject to the other provisions of this Act and subject to such rules as may be framed by the State Government for this purpose, prepare and submit to the Competent Authority for sanction, a detailed scheme for the construction of a new highway or the improvement of, or repairs to an existing one.(2)Such a scheme may provide for :-(a)the acquisition of any land, which in the opinion of the Highway Authority is considered necessary for its execution;(b)the demarcation and for preparation of layouts of all or any of the lands as acquired for different purposes;(c)the diversion or closure or any existing highway or a section of such highway;(d)the construction or reconstruction of the roadway including its widening, leveling, surface, bridging, swearing, draining, water supply and street lighting arrangements and planting of road side trees;(e)the laying out of footpaths, cycle tracks and special traffic lanes for any kind or class of vehicles, the designing and setting of parking bays and petrol filling and service stations and other road side amenities, the location of advertisement posts and bill boards; and(f)the layout of access roads at suitable distance connecting the highway or the proposed highway with the adjoining properties.(g)Provision for plantation should be made on both sides of the road.-(i)responsibilities for the maintenance of plants/trees may be given to the Department/local authorities or Public Committee as the case may be.(ii)no one should cut/ uproot any plant or tree lying within road boundary.(iii)whoever contravenes any provision of this clause shall be punished with fine, which may extent to Rs. 5000/- per tree, but not less than Rs. 1000/- per tree by the Competently Authority which may be declared by the State Government. The vehicles carrying the corpus of such tree shall be seized and may be confiscated.(iv)in case the plantation and maintenance of the plants/trees is done by the local persons/societies, such local persons/ societies shall have usufruct right over them.

8. Power to do certain acts for execution of highway schemes.

- When the Competent Authority has sanctioned the Highway schemes prepared in pursuance of Section 7 and arranged the necessary finances for its execution, the Highway Authority shall proceed to carry out the work and may for this purpose :-(a)enter into and perform all such contracts on behalf of the Competent Authority as may be considered necessary;(b)make arrangements for the acquisition of the lands required under the scheme by outright gift or purchase by agreement, with the owner or owners, or, filing such agreement, by resort to the provision of the Land Acquisition Act, 1894, as amended from time to time;(c)turn, divert or close either temporarily or permanently any existing highway or portion thereof; and(d)regulate subject to such rules as may be prescribed in this behalf, the kind, number and speed of vehicles using any highway or portion thereof by means of barrier, diversion roads or other means.

9. Maintenance of highways plans.

(1)The Highway Authority shall maintain authoritative plans for the highways in its charge;(2)Such plans shall show clearly the boundaries of the highway, the detailed measurements of road widths, the distance between boundary marks and measurements from fixed points to enable the refixation of the position of boundary marks, in case they have been displaced or tampered with;(3)The Highway Authority shall have all such authoritative plans prepared after having a survey made of the highway and their boundaries in the manner prescribed.

10. Demarcation of road boundaries.

(1)The Highway Authority shall have the boundaries of the highways in its charge demarcated with reference to the authoritative plans maintained by planting stones or by other suitable marks of a durable nature i.e. R.C.C. boundary stones as per I.R.C. code at intervals all along the highway in such a manner that the imaginary line joining such stones or mark shows the road boundary correctly.(2)Where there are bends or kinks in the road boundary, the stones or marks shall be so located as to give the correct configuration of the boundary if they are joined by straight lines;(3)The boundary stones are marked, which may be given consecutive numbers, shall be maintained on the ground as if they constitute part of the Highway.

11. Check of road boundaries.

(1)It shall be the duty of the Highway Authority to ensure that no part of the highway is encroached upon and for this purpose shall conduct regular checks of the boundaries of the highway in its charge with a view to locating encroachments if any;(2)When an encroachment has been made on highway, the Highway Authority shall take immediate steps as specified in Section 33 for the removal thereof.

Chapter IV

Restriction of Ribbon Development

12. Power to fix highway boundaries, building line and control line of highways.

(1) In any area in which the provisions of this Act have been brought into force and—(a) where any roadway or land has been declared to be a highway under this Act; or (b) where the construction or development of a highway is undertaken; the State Government, by notification in the Official Gazette, fix in respects to such highways the highway boundaries, the building line and the control line: Provided that having regard to the situation as the requirement of a highway or the condition of the local area through which a highway passes, it shall be lawful for the State Government,—(i) to fix different building line or control line; (ii) not to fix building line or control line; in respect of any highway or portion thereof. (2) Not less than sixty days before issuing a notification under subsection (1), the State Government shall cause to be published in the Official Gazette, and in the prescribed manner in the village and at the headquarters of the tehsil and the district in which the highway is situated, a notification which shall state the following—(a) intention to issue notification under sub-section (1); (b) the details of all the land situated between the highway boundary & the building line and between the building line and the control line and the control line proposed to be fixed; (c) invitation of objection or suggestion in writing to Highway Authority appeared in person before such authority in respect of such of notification within a period of one month of the publication of the notification in the Official Gazette or within fifteen days from the date of the publication of the notification in the village, whichever period expires later. (3) The Highway Authority shall, after all such objections or suggestions have been considered or heard, as the case may be, and after such further enquiry, if any, as it may think necessary, forward to the State Government a copy of the record at the proceedings held by it together with a report setting forth its recommendations on the objections or suggestions. (4) If, before the expiration of the time allowed by sub-section (2) for the filing or hearing of objections or suggestions, no objection or suggestion has been made, the State Government shall proceed to issue the notification under sub-section (1). If any such objection or suggestion has been made, the State Government shall, consider the record and the report referred to in sub-section (3) and may either,—(a) abandon the proposal to issue a notification under sub-section (1), or (b) issue the notification under sub-section (1) with such modification, if any, as it may think fit. (5) In considering the objections or suggestion, the decision of the State Government on the question of issuing the notification under, sub-section (1) shall be final and conclusive.

13. Map to be prepared and maintained.

- Within two months from the date of publication of the notification under sub-section (1) of Section 12 fixing the highway boundary, building line and control line with respect to any highway, the Authority shall cause a map to be made showing the alignment of the highway, the highway boundaries, building and control line and any other particulars necessary for the purpose of the Act and within one month from the date of making any alteration or addition thereto, cause the said

map to be corrected and such map, with the date indicated thereon of the last time when the same shall have been so corrected shall be kept in the office of Highway Authority. Such map, which shall bear the seal of the Highway Authority, shall be open to inspection. Copies of such map shall be made available to any person on payment of prescribed fees.

14. Restrictions on buildings between highway boundary and building line and between building line and control line.

(1) Notwithstanding the provision of the Chhattisgarh State in this regard no permission for diversion of agricultural land for non-agricultural purposes shall be given in the area of the land lying between the highway boundary and control lines without the prior sanction of the Collector of the district and subject to any general or special direction of the State Government. (2) Notwithstanding anything contained in any law, custom, agreement or instrument for the time being in force, on or after the appointed day, the following restrictions shall, subject to the provision of this Act, be in force that is to say, - No person shall, without the previous permission in writing of the Highway Authority, - (a) upon any land lying between the highway boundary and building line, proposed to be fixed under Section (2) or fixed under subsection (1) of Section 12, as the case may be, - (i) construct, form or layout any means of access to or from highway; or (ii) materially alter any existing building; or (iii) make or extend any excavation, or (iv) erect any building, or (v) construct, form or layout any works, or (b) upon any land lying between the building line and the control line proposed to be fixed under sub-section (2), or fixed under sub-section (1) of Section 12, as the case may be, - (i) construct, form or layout any means of access to or from a highway, or (ii) erect any building, or (iii) materially alter any existing building, or (iv) make or extend any excavation, or (c) use any building or after the use of any building already erected in a manner, which will, in any manner whatsoever, infringe any of the provisions of this Act or interfere with use of a highway adjoining the land on which such building is erected. (3) Every person desiring to obtain permission under sub-section (1) shall make an application in writing to the Highway Authority in such form and containing such information as may be prescribed in respect of the building, alteration, excavation, works or means of access, as the case may be, to which the application relates. (4) On receipt of such application, the Highway Authority, after making such enquiries as it may consider necessary, shall by order in writing, either - (a) grant the permission, subject to such conditions, if any, as may be specified in the order, or (b) refuse to grant such permission :- (i) permission under clause (a) of sub-section (1) to the making of an excavation or construction, formation or laying out of works in land for the purpose of repairing, renewing, enlarging or maintaining an underground sewer, drain, electric line, pipe duct or other apparatus shall not be withheld nor be made subject to any conditions save such as may be necessary for securing that such sewer, drain, electric line, pipe, duct or other apparatus shall be laid in such manner and such levels that the construction, development or maintenance of road thereover will not be prevented or prejudicially affected thereby; (ii) permission under clause (a) of sub-section (1) of the erection or alteration of a building or the making or extending of any excavation which conform to the requirements of public health, welfare and safety and convenience of traffic on the adjoining road shall be neither withheld nor made subject to unreasonable conditions; (iii) permission under clause (b) of sub-section (1) to the re-erection or alteration of a building which was in existence before the appointed day, shall be neither withheld nor made subject to restrictions unless such re-erection or

alteration involves any material alteration to the outside reappearance of the building.(5)If such permission is refused the reasons therefor, shall be recorded and communicated to the applicant:Provided that nothing therein contained shall debar a person from making a fresh application after omitting therefrom the objectionable features communicated to him as aforesaid on account of which such permission was refused.(6)Whenever an application for permission under the provisions to sub-section (5) has been made to the Highway Authority it shall be obligatory for the Highway Authority to dispose Of the same within a period of three months.(7)The Highway Authority shall maintain a register with sufficient particulars of all permissions given or refused by it under this section and such register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extracts therefrom.Explanation. - For the purpose of this section, "appointed day" shall with reference to any highway boundary line or control line, means-(i)the day on which the notification is published in the official Gazette under sub-section (2) of Section 12 proposing to fix such highway boundary, building line or control line; and(ii)if any modification is made in such highway boundary, building line or control line, the day on which the notification is published under sub-section 1 of Section 12 fixing such highway boundary, building line or control line.

15. Appeal.

(1)If any applicant is aggrieved by any decision of the Highway Authority under Section 14, withholding permission or imposing any condition, he may transfer an appeal to the State Government or any authority to be notified by the State Government within thirty days from the date on which such decision was communicated to him.(2)The authority hearing the appeal may, after giving an opportunity to the appellant to be heard, pass such order as it may think fit and the decision of such authority shall be final. An appeal shall be disposed of within 30 days from the date of filing.

16. Exemptions of works in progress.

- No restriction enforced under Section 14 shall apply to any excavation or work necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric line, pipe, duct or other apparatus constructed in or upon the land before the date on which the restrictions came into force or with the consent of the Highway Authority on or after that date.

17. Setting back of building to building line or control line.

- If any building or any part thereof erected before the appointed day referred to in Section 14 lies between the building line and the middle of a highway, the Highway Authority may, whenever any such building or part thereof has either entirely or in greater part, been taken down, burnt down or fallen down by notice, require such building or part thereof, to be set back to the building line or control line.

18. Regulation or diversion of right of access to highway.

(1)The Highway Authority may, if it is considered essential in the interest of safety or convenience of traffic, regulate or divert any existing right of access to highway across the land lying between the control line and the highway boundary :Provided that any existing right of access shall not be diverted until alternative access has been given.(2)Where any existing right of access is diverted, the point at which alternative access is given to the highway shall not be unreasonably distant from the existing point of access.(3)The Highway Authority shall, by notification in the official Gazette, publish the date on which the existing right of access has been diverted and alternative access has been given.

19. Acquisition of land.

(1)At any time, on the application of the Highway Authority, the State Government may arrange land within the provision of the Land Acquisition Act 1894 (Central Act 1 of 1894), as amended from time to time.(2)In case of urgency, whenever it appears to the State Government that the land is required for temporary occupation by the Highway Authority, it may direct the Collector to procure the occupation and use of the same for the Highway Authority as per provisions contained in Sections 35, 36 and 37 of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

20. Notice for extinguishment of right or interest in land.

(1)If at any time, on the request of the Highway Authority, the State Government is satisfied that any right or interest of any person in any land be extinguished for the purposes of a highway and such extinguishment does not amount to acquisition of land as specified in the Land Acquisition Act, 1894 (Central Act 1 of 1894), the State Government shall cause a public notice to be given by position at a prominent place on or near the land or by publication in two daily newspapers having circulation in the locality of which one shall be in the Hindi language, stating that the State Government intends to extinguish any right or interest in the land and that all claims to compensation for such right or interest to be extinguished may be made to the Collector.(2)The notice to be given under sub-section (1) shall state the particulars of the right or interest in the land to be extinguished and shall require all persons having such right or interest to appear personally or by agent before the Collector on day not earlier than fourteen days after the publication of such notice. Nature of the rights or interests in the land to be extinguished, the amount and particulars of claim to the compensation and the objections, if any may be required to be stated in writing.

21. Matters to be considered in determining compensation.

(1)In determining the amount of compensation for extinguishment of right or interest, the Collector shall take into consideration the damage sustained due to :-(a)the fixation of control line under Section 12;(b)the imposition of restrictions under Section 14;(c)the setting back of any building or part thereof under Section 17;(d)the regulation or diversion of any right of access to a highway under Section 18.(2)Notwithstanding anything contained in sub-section (1), no compensation shall be

claimed or awarded if the land is subject substantially to similar restrictions under some other law, for the time being in force as are imposed under this Act.(3)No compensation shall be awarded for extinguishment of any right or interest in land to any person, if compensation in respect of the same restrictions as are imposed under this Act, has already been paid under any other law in respect of the land, to the claimant or to predecessor in interest of the claimant.

22. Determination of the amount of compensation.

(1)On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall give claimant or claimants an opportunity of being heard in person or by any person authorised by him in this behalf or by a pleader and shall, after hearing all the claims and after making such further enquiry, if any, as he thinks necessary, determine the amount compensation in respect of the damage and the determination so made by the Collector in the prescribed manner shall be final.(2)The Collector shall make an order of determination of compensation under sub-section (1) within a period or six months from the date of application. The provision in Section 23 of the Land Acquisition Act may also be taken into consideration while determining the compensation amount:Provided that, no such determination of compensation shall be made by the Collector under this sub-section without the previous approval of State Government or such other officer, as the State Government may authorise in this behalf:Provided further that the Collector may make an order of the determination in compensation without such approval in such class or cases as the State Government may specify in this behalf.

23. Rights and interests when to be extinguished.

(1)Whenever an order under sub-section (1) of Section 22 is passed, the Collector shall tender payment and compensation determined by him to the persons entitled thereto.(2)If any person entitled to receive the compensation does not consent to receive or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of compensation in the Court to which a reference under Section 24 would be made :Provided that any person admitted to be interested may receive such payment under protest:Provided further that no person who has received that amount otherwise than under protest shall be entitled to make any application under Section 24 :Provided also, that nothing contained shall affect the liability of any person who may receive the whole or any part of compensation determined under this Act to pay the same to the person lawfully entitled thereto.

24. Reference to Court.

- Any person who has not accepted the order awarding compensation may, within a period of forty five days from the date of order by writing application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement, the amount of compensation, the persons to whom it is payable or the apportionment of the compensation among the person interested.

25. Collector's statements to Court.

- The Collector shall, in making such reference forthwith the following information to the Court-(a)the situation and extent of claim, with particulars of any building, structure etc.;(b)the name of persons whom he had reason to believe are interested in the claim;(c)the amount of compensation determined under Section 22;(d)the amount paid or deposited under Section 23, and(e)if the objection be to the amount of compensation, the grounds on which the amount of compensation was determined.

26. Service of notice.

- On receipt of reference the Court shall cause a notice, to be served on the following person, specifying the day on which the Court shall proceed to determine the objection and directing their appearance before the Court on the specific day, namely :-(a)the applicant(b)all persons interested except such of them as have consented within protest to receive payment of the compensation ; and(c)the State through Collector, if the objection is in regard to the amount of compensation.

27. Restriction of scope.

- the scope of the enquiry in which such proceeding shall be restricted to the consideration of the interests of persons affected by the objection.

28. Form of award.

- Every award of compensation by the Court under this section shall be in writing signed by the Judge, and shall specify the amount awarded and every such award shall be deemed to be a decree and the statement of grounds of every such award, a judgement within the meaning of Section 2, clause (2) and Section 2 clause (9) respectively, of Code of Civil Procedure, 1908 (5 of 1908).

29. Costs.

- The Court shall while deciding every reference, also state the amount of costs incurred in the proceedings before it and by what persons and proportions they are to be paid :Provided that, when the award of the Collector is not upheld, the cost shall ordinarily be paid by the Collector unless the Court is of the opinion that the claim of the applicant was so extravagant or he was negligent in putting his case before the Collector so that some deduction from his costs should be made or that he should pay a part of collectors cost.

30. Interest on excess compensations.

- If the Court award a sum in excess of the sum awarded as compensation by the Collector, the Court may direct that an interest on such excess amount at the rate of 7 per centum per annum from the date on which the rights or interest over such land were extinguished under the provision of Section

23 to the date of payment of such excess shall be paid into the Court.

Chapter V

Prevention of Unauthorised Occupation and Encroachment on a Highway and Removal of Encroachment

31. Land forming part of highway deemed to be Government property.

- All lands forming part of highway, which do not already vest in the State Government, but certain rights and interest therein have been extinguished under the provision of Section 23 shall for the purpose of this chapter, be deemed to be the property of the State Government.

32. Prevention of unauthorised occupation of highway.

(1) No person shall occupy or encroach upon any highway within the highway boundaries. (2) No right shall accrue to any person over any part of any highway by way of adverse possession.

33. Removal of encroachment.

(1) When as a result of checking of the highway boundaries or otherwise it is found that an encroachment has taken place on a highway, the Highway Authority or any officer authorised in this behalf shall serve a notice on a person responsible for the encroachment or on his representative requiring him to remove such encroachment and restore the land to its original condition as it existed before such within the period specified in the notice. (2) The notice shall specify the land encroached upon and the time limit within which such encroachment is to be removed and shall also state that the failure to comply within the period specified therein will render the person liable to prosecution and also the summary eviction. (3) If the encroachment is not removed within the period specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorised officer referred to in sub-section (1) may request in writing to the Collector to remove the encroachment and thereupon the Collector shall take action for summary eviction as if the matter falls within the scope of Section 60. (4) Where the encroachment is of such a nature that its immediate removal is considered essential in the interest of safety to traffic on the highway on the safety of any structure forming part of the highway and no notice can be served immediately on the person responsible for the encroachment or his representative under sub-section (1) owing to his absence or for any other reason, the Highway Authority or the authorised official may, in addition to prosecution of the person under sub-section (3), either :- (i) have such protective work as may be feasible at a reasonable cost carried out so as to minimise the danger to traffic on the highway, or (ii) have the encroachment removed with the help of the police, if necessary.

34. Appeal against notice served.

- Where the person to whom a notice to remove an encroachment has been served, under sub-section (1) of Section 33, claims that the land in respect of which encroachment has been alleged, is his property, he shall within the time limit prescribed in the notice for the removal of the encroachment, file an appeal before the Collector under intimation to the Highway Authority. The Collector shall, after due enquiry, record his decision in writing and communicate the same to the appellant and the Highway Authority.

35. Recovery of cost of removal of encroachment.

(1) Whenever the Highway Authority or any officer authorised under Section 33 has removed any encroachment or carried out any protective work in respect of any encroachment, the expenditure involved shall be recovered from the person responsible for the encroachment in the manner hereinafter provided. (2) A statement of the expenditure incurred shall be served by the Highway Authority or the authorised officer referred to in sub-section (1) on the person responsible for the encroachment or his representative with a direction to pay the amount within a specified period to the authority mentioned therein. (3) The statement shall be accompanied by a certificate from the Highway Authority or the authorised officer referred to in sub-section (1) to the effect that the amount of expenditure indicated in the statement represents the charges incurred and such certificate shall be conclusive proof of the fact that the charges have actually been incurred. (4) The material, if any, recovered as a result of the removal of the encroachment on payment of the amount within the specified period and if such payment is not made, the material may be auctioned and after deducting the amount due from the proceeds, the balance, if any, shall be made over to such person. (5) If the proceeds of the auction sale do not cover the total amount due, for the excess over the amount realised by the sale of material or if there is no material to dispose of and due amount has not been paid by the person responsible for the encroachment within the specified period the entire amount due shall be recovered from such person as an arrear of land revenue.

Chapter VI

Supplemental Provision Relating to Compensation

36. Determination of amount of compensation.

- After the issuance of notice under Section 19 and before the determination of amount of compensation under Section 22, the Collector may enter into an agreement, for settling the amount of compensation, including apportionment of such an amount among persons interested, with any person interested in the land wherein the rights and interests are sought to be extinguished for the purposes of the Highway. As and when such an agreement is concluded, the Collector shall intimate to the Highway Authority the fact of conclusion of an agreement with a certified copy thereof and thereafter the Collector shall stop further proceedings with regard to determination of the amount of compensation under Section 22 and shall make payment to the person or persons interested in accordance with the said agreement: Provided that no such agreement shall be conducted by the

Collector under this section without the previous approval of the State Government as the State Government may authorise in this behalf.

37. Compensation for cutting of standing crops or trees etc.

- At the time of any entry, survey or measurement or doing to any of the things under Section 6, the officer making the entry, survey or measurement or doing any other thing, shall prepare a detailed report of the damage as a result of such entry, survey measurement or execution of work including the cutting of standing crops, trees or removal of temporary structures, if any, on the land and forward it to the Collector for consideration at the stage of determination of compensation under Section 22.

38. No compensation for unauthorised erection.

- If any person has unauthorisedly erected, re-erected, added or altered any building on any land, which is required for the purpose of a highway, then any appreciation in the utility of the land from such erection, re-erection, addition or alteration shall not be taken into account for determining the amount of compensation under Section 22.

39. No compensation for removal of encroachment.

- No compensation shall be payable for the removal of any encroachment.

40. Payment by adjustment.

- All payments due to be made to any person by way of compensation by the Highway Authority under this Act shall as far as possible be made by adjustment in such person's account regarding betterment charges, if any, due from such person under Chapter VII.

Chapter VII

Payment of Betterment Charges

41. Notice to owners and persons interested.

- Where any work, which a Highway Authority is empowered to undertake under the provision of this Act, is undertaken, the officer authorised by the State Government in this behalf shall give notice to the persons known or believed to be the owners of, or interested in the land benefited by a work, requiring them to appear before him either personally or by an agent at time and place therein mentioned (such time not being earlier than thirty days from the date of notice) and to state their objections, of any, to the imposition and recovery of betterment charges on such lands :Provided, that no such notice shall be given unless the Highway Authority with the previous sanction of the State Government has declared that the value of such lands is likely to increase or has increased by

reason of the construction of such work.

42. Inquiry and order.

- On the date fixed under Section 41 or on such other date to which the inquiry may be adjourned, the officer authorised under Section 41 shall, after holding a formal enquiry and after hearing the objections, if any stated by the persons as required by notice under Section 41, make an order. The order shall specify :-(a)the lands benefited by the construction of works;(b)the increase in the value of such lands by the proposed construction; and(c)the amount of betterment charges leviable on each of the said lands :Provided that the betterment charges shall be levied from the date of order of diversion passed by Section 172 of Chhattisgarh Land Revenue Code 1959 (No. 20 of 1959) :Provided further that no betterment charges shall be leviable in respect of any land :-(i)which is unsuitable for development as a building site, or(ii)which is situated beyond a distance of two hundred meters from the middle of the highway on either side.

43. Increase in value and betterment charges.

- The increase in value on account of the construction of work shall be the amount by which the value of the land on the date of completion of the proposed work is likely to exceed or has exceeded the value of the land on the date of commencement of the said work and the betterment charges shall be one half of such increase in value.Explanation. - For the purpose of this section, the State Government shall by notification in the official Gazette specify :-(a)the date of commencement of the construction of any work; and(b)the date of completion of such work.

44. Finality of order fixing betterment charges.

- The order, fixing the betterment charges, made under Section 42, shall be final.

45. Remedy to person aggrieved.

- Any person aggrieved by the order fixing the betterment charges may, approach a Court of competent jurisdiction.

46. Betterment charges be recoverable as arrears of land revenue.

- The betterment charges recoverable in respect of any land, if not paid, shall be recoverable as arrear or land revenue.

Chapter VIII

Supplemental Provisions to Secure Safety of Traffic and Prevention of Damage to Highways

47. Prevention of observations of view of person using the highway.

(1) Whenever the Highway Authority is of the opinion that it is necessary for the prevention of danger arising from obstructions of the view of person using any bend or corner of the highway, it may, save as otherwise provided in Section 16 serve a notice upon the owner or occupier of land alongside or the bend or corner of such Highway to after within such time and in such manner as may be specified in the notice the height or character of any existing wall (not being a wall forming part of a permanent structure), fence hedge, trees, advertisement-posts, bill-boards or any other obstruction thereon, so as to cause it to conform with any requirements specified in the notice. (2) Reasonable expenses incurred by the owner or occupier complying with the requirement of the notice shall be reimbursed to him, provided the object or obstruction had not been constructed or erected in contravention of any law for the time being in force. Determination of the amount to be reimbursed shall be made by the Highway Authority and its decision in this respect shall be final. (3) No expenses incurred in case of removal of the object of obstruction constructed or erected in contravention of any law or bylaw for the time being in force, shall be reimbursed in complying with the requirement of the notice. Action against concerned person who has constructed or erected the object of obstruction in contravention of any law or bylaw shall also be taken as provided in the relevant law. (4) If any person upon whom a notice has been served under sub-section (1), objects to comply with the requirement of such notice, he may within one month of the receipt send to the Highway Authority, his objection in writing stating the grounds thereof. (5) The Highway Authority shall within one month of the receipt of the objection, consider the grounds advanced and shall by order in writing, withdraw the notice or amend or confirm it. (6) A person aggrieved by an order passed by the Highway Authority under sub-section (5) may prefer an appeal within fifteen days from the date when such order was communicated to him, to the Collector, whose decision in the matter shall be final. (7) (a) If any person fails to comply with the notice served on him under sub-section (1) as amended or confirmed, as the case may be, under sub-section (5), the Highway Authority may take action to after the object causing obstruction of view. (b) Any expenditure incurred by the Highway Authority in altering the object causing the aforesaid obstruction of view shall be recovered from the person concerned if the said object was constructed or erected in contravention to any law in force in this respect, without prejudice to the action provided for in any other law for the time being in force.

48. Highway Authority to regulate traffic when highway declared unsafe.

- If any time it appears to the Highway Authority that any highway in its charge or any portion thereof, is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such rules as may be prescribed in this behalf, either close the highway or the portion of it to all traffic or to any class of traffic or regulate the number and speed or weight of vehicles using the highway.

49. Prohibition of use of heavy vehicles on certain highways.

- Where the Highway Authority is satisfied that any highway or portion thereof, or any bridge, culvert or causeway built on or across any highway is not designed to carry vehicles of which the

laden weight exceeds such limit as may be fixed in this behalf, it may subject to such rules, as may be prescribed in that behalf, prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway.

50. Procedure to be followed when Highway Authority desires to close any highway permanently.

(1)Where is exercise of the powers conferred on it by Section 48, the Highway Authority desired to close down any highway or part thereof, permanently, it shall give notice of its intention to do so by notification in the official Gazette. The notification shall also be published in at least two newspapers, one of which shall be in Hindi language.(2)The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence, and shall also invite objections, if any, to proposal to be submitted within such time as may be specified.(3)The Highway Authority shall finalise its proposal to close down any highway or part of it after considering the objections, if any, received within the specified time and shall submit the final proposal to the State Government for approval together with such objections as may have been received against the proposal.(4)The State Government may either approve the proposal, with or without modification or reject it.(5)When the State Government approves the proposal it shall publish its orders in the official Gazette.(6)When the orders of the State Government have been published in the official Gazette, the Highway Authority shall arrange for further publicity to be given to the orders in at least two newspapers one of which shall be in the regional language of the place in which such highway is situated and the highway or part thereof shall then be closed.(7)Whenever any highway or any part thereof has been so closed reasonable compensation shall be paid to every person who was entitled, otherwise than as a mere member of the public, to use such highway or part thereof as a means of access to or from his property and has suffered damage for such closure.

51. Consent of Highway Authority required to do certain acts on highway.

- Notwithstanding anything contained in any other enactment for the time being in force, no person other than the Highway Authority or any person authorised by it shall construct or carry any cable, wire, pipe, drain sewer, channel of any kind through, across, under or over any highway, except with the permission in writing of the Highway Authority.(2)In giving its consent the Highway Authority may impose such conditions as it may deem fit, and may also impose a rent or other charge for land forming part of the highway, occupied by or applied to the proposed work.(3)If any person constructs or carries out any work in contravention of sub-section (1), the Highway Authority may arrange for the removal of such work and restoration of the Highway to its former condition in accordance with the provisions of Section 33 as if the work constituted an encroachment on the highway and such expenses, as the Highway Authority may incur for this purpose shall, without prejudice to any action that may be taken against such persons, be recovered from him in accordance with the procedure provided in Section 35 in so far as the procedure is applicable.

52. Prevention and rectification of damage of highway.

(1) No person shall willfully cause or allow any vehicle or animal in his charge to cause any damage to any highway. (2) Where in contravention of sub-section (1) any damage has been caused to any highway, the Highway Authority shall have the damage repaired and the expenses involved shall, without prejudice to any other action that may be taken against the person responsible for the contravention of sub-section (1) be received from him in accordance with the procedure in Section 35 in so far as that procedure is applicable.

Chapter IX Penalties

53. Disobedience of orders, instructions and refusal to give information.

- Whoever willfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or obstructs any person or authority in the discharge of any functions that such person or authority is required or empowered under this Act to discharge or being required by or under this Act to supply any information, withholds such information, or gives information which he knows to be false or which he does not believe to be true shall, on conviction, be punishable with fine which may extend to two thousand rupees.

54. Contravention, restrictions relating to access or erecting any building.

- Whoever, erects, alters or extends any building or makes any excavation, or constructs any means of access to or from a highway or does any other work in contravention of the provisions of section shall on conviction be punishable :- (a) with fine which may extend to five thousand rupees; and (b) with further fine which may extend to one thousand rupees for each day after such conviction, during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original condition.

55. Unauthorised occupation of highway.

- Whoever (a) occupies or makes any encroachment on any highway in contravention of the provisions of sub-section (1) of Section 32; or (b) fails to comply with the notice served on him under sub-section (1) of Section 33 for no valid reason, shall on conviction, be punishable. (i) for first offence with fine which may extend to five thousand rupees and (ii) for a subsequent offence in relation to the same encroachment with fine which may extend to ten thousand rupees; and (iii) for persistent encroachment, imprisonment upto two months plus a further fine not exceeding five hundred rupees per day on which such occupation of the highway or encroachment continues. Explanation. - "Persistent encroachment" shall mean continuance or committing of encroachment by any person on the same portion or place of the highway for which he was punished earlier under sub-clause (b) (i) (ii) of this section.

56. General provisions for punishment of offences.

- Whoever contravenes any provision of this Act or any rule or order made thereunder shall, if no other penalty is provided for the offence, on conviction, be punishable,-(a)for a first offence with fine which may extend to one hundred rupees; and(b)for a subsequent offence with fine which may extend to five hundred rupees.

57. Power to compound offences.

- Notwithstanding anything contained in any law for the time being in force, any offence committed under this Act other than an offence prescribed under Section 55 may be compounded by the Highway Authority on such terms as may be specified by the State Government by a special or general order and if any proceedings have been instituted against any person in any Criminal Court, than on the terms of the compromise being carried out, the composition shall amount to an acquittal and in no case shall, any further proceedings, be taken against such person or any property of such person with reference to the same facts.

Chapter X

Miscellaneous

58. Powers and duties of Police.

- Every Police Officer shall forthwith furnish information to the nearest Highway Authority, or the nearest Officer subordinate to the Highway Authority of any offence coming to his knowledge which has been committed against this Act or any rule made thereunder and shall be bound to assist the Highway Authority and its officers and employees in the exercise of their lawful authority.

59. Duties of village officials.

- Every village, Kotwar by whatever name called shall forthwith inform the nearest police station or the nearest Highway Authority or any officer duly authorised by the Highway Authority whenever he becomes aware that, any survey mark of any highway or any mark showing the building or control line determined in respect of a highway, has been destroyed/damaged, removed, displaced or otherwise tampered with or that any damage to any highway has been made.

60. Eviction.

- Any person wrongfully occupying any land-(a)which is a part of a highway; or(b)the occupation of which contravenes any provision of this Act and the said provision do not provide for the eviction of such person;shall be evicted under and in accordance with the provisions of Section 33 of this Act.

61. Certain persons to be public servants.

- The Highway Authority and all the officers and other person authorised or appointed under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

62. Bar of jurisdiction.

- Save as provided under this Act no Civil Court shall have jurisdiction to settle, decide or deal with any matter; which is by or under this Act, required to be settled, decided or dealt with by the Highway Authority, the Collector or officer or person authorised under this Act, or the State Government.

63. Protection of persons acting in good faith and limitation of suit or prosecution.

(1) No suit, prosecution or other legal proceedings shall be instituted against any public servant or officer or person duly authorised under this Act in respect of any thing in good faith done or intended to be done under this Act, or the rules or orders made thereunder. (2) No suit or prosecution shall be instituted against any public servant or officer or person duly authorised under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

64. Power to make rules.

- The State Government may, by notification in the official Gazette, make rules to carry out all or any of the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following matters :- (a) the manner in which the notification may be published in the village and at the headquarters of the tehsil and district under Section 12; (b) the other places at which copies of map may be kept for inspection under Section 13; (c) the form of application and its contents under sub-section (3) of Section 14; (d) prescribing the rules subject to which a highway or portion of it may be closed to traffic or any class of the traffic or the number and speed or weight of the vehicles using the Highway may be regulated under Section 48; (e) prescribing the rules subject to which plying of vehicles may be prohibited under Section 49. (f) the prevention of obstruction of view of persons using highway and annoyance, danger or injury to the public; (g) the prevention of obstruction, encroachment and nuisance on or near and of damages to highway; (h) the proper maintenance of boundary marks demarcating highway boundary and building and control lines; (i) the prescription of various forms of applications required to be made and the forms of notices and bills required to be served on persons, the charges to be made for the supply of copies of maps, and the charges to be imposed or levied under the provisions of this Act; (j) the general guidance of the Highway Authority in the discharge of its function under this Act; (k) regulation of diversions of existing rights of access; (l) the manner in which the notice or statements may be served or presented; and (m) any other matter

which is required to be or may be prescribed under this Act.(3)All rules made under this Act shall be laid on the table of the Legislative Assembly.

65. Provisions of this Act or Rules to prevail over inconsistent provisions in other laws.

- Save, as provided in any Central Act relating to cantonments, Railways, Telegraph and Electricity, the provisions of this Act or rules made thereunder in regard to any matter dealt with, thereby shall prevail over the provisions of any other law made by the State Legislature is competent to make or to amend, in so far as such law is consistent with the said provisions or rules and such law to the extent of such inconsistency, shall cease to apply or shall not apply to any such matter :Provided that if any highway is declared to be a National Highway under the National Highway Act 1956 (Central Act, XLVIII of 1956), it shall be lawful for the State Government to fix the building and control lines for different portions of the said highway under Section 12 or to levy betterment charges under Section 42 on lands, the value of which has increased by reasons of the construction or proposed constructions of such highway and thereafter the provisions of this Act in so far they apply to the restrictions on buildings between the highway boundary and the building line or between the building line and control line and other provisions relating to such building and control lines, as the case may be and the provisions of this Act relating to the levy of betterment charges shall, mutatis mutandis, apply.

66. Repeal.

- The Chhattisgarh, Highway Act, 1936 (No. 34 of 1936) so far as applies to Chhattisgarh State is hereby repealed.