

BIHAR FIRE SERVICE BILL, 2014

A BILL

Preamble –To provide for better regulation of fire fighting, carrying out fire fighting measures, enforcing fire safety measures in any building, enforcing effective fire prevention and fire safety in all types of buildings, premises and temporary structures and for modern organisational structures of the Bihar Fire Service in the State of Bihar.

Be it enacted by the legislature of the State of Bihar in the sixty fifth year of the Republic of India as follows :-

1. **Short title, extent and commencement**— (1) This Act may be called the Bihar Fire Service Act, 2014.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall come into force in any area on such date as the Government may, by notification in the official Gazette, appoint and different dates may be appointed for different areas and for different provisions of this Act.

CHAPTER – I PRELIMINARY

2. **Definitions** – In this Act, unless the context otherwise requires,

- (a) “appellate authority” means the Director General of Fire Services, Government of Bihar, appointed by the Governor of the State of Bihar.
- (b) “building” means any structure whether of masonry bricks, woods, mud, metal or other materials and includes a house, out-house, basement, underground parking, stable, latrine, urinal, shed, hut or wall (other than a boundary wall);
- (c) “building bye laws” means the bye-laws made under the Bihar Municipal Act, 2007.
- (d) “Director” means the Director, Bihar Fire Service appointed by the Government under sub-section (1) of Section 8 of this Act;
- (e) “erector of pandal” means a person or an association of persons, whether corporate or otherwise, who erects or makes a pandal or any structure for occupation of people on a regular or temporary basis.;
- (f) “fire division” means such number of fire sub-divisions as may be prescribed; in the State of Bihar and declared generally or specially by the Government to be a fire division for the purpose of this Act;
- (g) “fire prevention and fire safety measures” means such measures as are necessary in accordance with the building bye-laws / National Building Code of India for the containment, control and extinguishing of fire and for ensuring the safety of life and property in case of fire and as may be prescribe in the rules made in this behalf;
- (h) Divisional Fire Officer appointed by the Government of Bihar under section 9 of this Act.
- (i) Assistant Divisional Fire Officer appointed by the Director General Fire Service under section 9 of this Act.
- (j) “fire safety officer” means the person appointed under section 29 of this Act as fire safety officer by the owners and occupiers of certain premises and buildings as specified in this behalf to ensure fire prevention and fire safety measures installed in such premises and buildings;
- (k) “fire officer” means operational member of the Fire Service .
- (l) “Fire Service” means the Bihar Fire Service constituted under section 5 of this Act;

- (m) “fire station” means a building erected to house the fire fighting equipment, appliances and staff declared generally or specially by the Government to be a fire station for the purpose of this Act.
- (n) “fire sub-division” means a fire sub-division comprising such number of fire stations as may be prescribed and declared generally or specially by the Government to be a fire sub-division for the purpose of this Act.
- (o) “Government” means the Government of Bihar.
- (p) “Governor” means the Governor of Bihar appointed by the President under article 155 of the Constitution.
- (q) “member” in relation to the Fire Service means a person appointed to the Fire Service under this Act;
- (r) “multistoried building” means a building with such minimum height as may be prescribed under the rules in this behalf and notified to the Director by the local authority.
- (s) “nominated authority” means an officer not below the rank of a Station Officer nominated by the Director as a nominated authority for the purpose of this Act.
- (t) “occupancy” means the principal occupancy for which a building or a part of a building is used or intended to be used including subsidiary occupancies which are contingent upon it;
- (u) “occupier” includes –
 - (i) any person who, for the time being, is paying or is liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable.
 - (ii) an owner in occupation of or otherwise using his land or building;
 - (iii) a rent – free tenant of any land or building ;
 - (iv) a licensee in occupation of any land or building; and
 - (v) any person who is liable to pay to the owner damages for the use and occupation of any land or building;
- (v) “officer-in-charge” means a fire officer in charge of a Fire Station;
- (w) “operational member of the Fire Service” means any member of the Fire Service who is required to drive to operate a fire fighting vehicle, fire fighting equipment and appliance at the site of fire and participate in the actual extinction of fire.
- (x) “owner” includes a person who, for the time being, is entitled to receive, the rent of any land or building, whether on his own account or own account of himself and others or as an agent, trustee, guardian or receiver or any other person or who should show receipt of the rent or be entitled to receive it if the land or building or part thereof where let to a tenant and includes the custodian of evacuee property in respect of evacuee property in him under the Bihar Building (Lease, rent & eviction) Control Act 1982 and Rules 1983, as amended and other relevant Act & Rules.
- (y) “pandal” means a temporary structure with roof or walls made of straw, hay, ulu grass, golpatta, hogla, derma, mat, canvas, cloth or

other like material which is not adopted for permanent or continuous occupancy;

- (z) “premises” means any land or any building or part of a building and includes the garden ground and out house, if any, appurtenant to building or part of a building, and any land or any building or part of a building appurtenant thereto which is used for storing explosives explosive substance and dangerously inflammable substance;

Explanation – In this clause, “explosive”, “explosive substance” and “dangerously inflammable substance” shall have the meaning, respectively assigned to them in the Explosive Act, 1884 (4 of 1884), the Explosive (Substances) Act, 1908 (6 of 1908) and the Inflammable Substances Act, 1952 (20 of 1952).

- (a a) “prescribed” means prescribed by Rules made under this Act.
 (a b) “prescribed authority” means authority prescribed by the Rules made under this Act.
 (a c) “Sub-Divisional Magistrate” means an officer of the Government appointment as Sub-Divisional Magistrate under sub-section (4) of section 20 of the Code of Criminal Procedure 1973 (2 of 1974).
 (a d) “Subordinate Operational Staff” includes every member of the Fire Service of the rank of fireman, leading fireman, driver and any other equivalent rank;
 (a e) “Fire Station Officer” means an officer of the Fire Service appointed as fire station officer by the Government/Director General of Fire Services
 (a f) Fire Consultant & Fire Advisor means having minimum technical qualification Bachelor of Fire Engineering. or M.I. Fire Engineering. or equivalent with minimum 10 yrs. experience.

CHAPTER – II

ORGANISATION, SUPERINTENDENCE CONTROL AND MAINTENANCE OF THE FIRE SERVICE

3. One Fire Service for whole of Bihar – There shall be one fire service for the whole of Bihar and all officers and employees of sub-ordinate ranks of the Fire Service shall be liable for posting to any part of Bihar.

Provided that this provision shall not apply to the private fire services maintained for providing fire protection coverage to specific building or industry by the owner or occupier thereof.

4. Superintendence of Fire Service to vest in the D.G. Fire Service – The superintendence of and control over, the Fire Service throughout Bihar shall vest in the Director General Fire Service assisted by the Director State Fire Service or other officer notified by the Government from time to time.

5. Constitution of Fire Service – Subject to the provisions of this Act, -

- (a) the Fire Service shall consist of such number of posts in the several ranks and have such organization and such powers, functions and duties as the Government may by general or special order, determine; and
 (b) the recruitment to, and the pay, allowances and all other conditions of service of the members of, the Fire Service shall be such as may be prescribed.

- 6. Classification of post of Fire Service** – The classification of the posts of the Fire Service shall be as follows :-
- (1) Group 'A' post means any post which having regard to its scale post had been in the State Government, be classified as a Group 'A' post under the State Government in accordance with the orders issued by that Government from time to time.
 - (2) Group 'B' post means any post which having regard to its scale of pay and emoluments would, if such post had been in the State Government, be classified as a Group 'B' post under the State Government in accordance with the orders issued by that Government from time to time.
 - (3) Group 'C' post means any post which having regards to its scale of pay and emoluments would, if such post had been in the State Government, be classified as a Group 'C' post under the State Government in accordance with the orders issued by that Government from time to time.
 - (4) Group 'D' post means any post which having regard to its scale of pay and emoluments would, if such post had been in the State Government, be classified as Group 'D' post under the State Government in accordance with the orders issued by that Government from time to time.
- 7. Appointments to Group 'A' and Group 'B' post of Fire Service** – The Government shall make appointments to any Group 'A' or Group 'B' posts within the meaning of sub-section (1) and sub-section (2) of Section 6 respectively, only after consultation with the Bihar Public Service Commission or as per the relevant guideline of the Bihar Govt.
- 8. Appointment of Director of Fire Service** – (1) For the directions and supervision of the Fire Service in Bihar, the Government shall appoint a Fire Officer to be the Director who shall exercise such powers and perform such duties and other functions as are specified by or under this Act.
- (2) Subject to the rules made in this regard by the Government, the Director may appoint subordinate staff of Group 'C' level including operational members of this category only on the recommendations of the Bihar State Subordinate Services Selection Board or any other selecting authority as the Government may, by notification, prescribe, on monthly salaries and such allowances as may be fixed by the Government.
- (3) Subject to rules made in this regard by the Government, the Director may appoint Group 'D' staff including operational members of this category on monthly salaries and such allowances as may be fixed by the Government.
- 9. Constitution of fire division, sub-divisions and fire stations** – The Government may –
- (a) constitute fire zones and fire divisions within the Bihar State.
 - (b) divide such fire Zones into fire divisions, and fire divisions into fire sub-divisions, and specify the fire divisions, fire sub-divisions and fire stations in fire zone, fire division and fire sub-division respectively; and

(c) define the limits and extent of , fire divisions, fire sub-divisions and fire stations as may be necessary for administrative and operational efficiency.

10. Certificate of appointment— (1) Every fire officer of the rank of sub-officer and below shall, on enrolment receive a certificate of appointment.

(2) The certificate shall be issued under the seal of such officer and shall be in such form as the D.G. Fire Service may, by general or special order, prescribe.

(3) A certificate of appointment shall become null and void when the person named therein ceases to belong to the Fire Service or shall remain inoperative during the period such person is suspended from the Fire Service.

(4) The members of the Fire Service shall be governed by such rules as are applicable to Government servants in relation to the terms and conditions of their service and all other allied matters.

11. Effect of suspension of fire officer.—The powers, functions and privileges vested in a fire officer shall remain suspended while such fire officer is under suspension from office:

Provided that notwithstanding such suspension, such person shall not cease to be a fire officer and shall continue to be subject to the control of same authorities to which he would have been if he had not been under suspension.

12. General powers of the Director.—The Director shall subject to the superintendence and control of the D.G. Fire Service, direct and regulate all matters of fire fighting equipment, machinery and appliances, training, observation of persons and events mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfillment of duties and maintenance of discipline of fire officers and members of the Fire Service under him.

CHAPTER-III CONTROL AND DISCIPLINE OF FIRE SERVICE

13. Calling of returns, reports, statements, etc.— The Government may call for such returns, reports and statements on any subject connected with fire prevention and fire safety, the maintenance of order and the performance of duties by the Director, fire officers, operational members, members and subordinate operational staff, and the same shall be immediately furnished.

14. Certain State Rules to apply to employees of Fire Service.—The provisions of the Bihar Government Servant conduct Rules, 1976, Bihar Government Servant (classification, control and Appeal) Rules, 2005 and Bihar Pension Rule 1950 as amended, from time to time, shall be extended mutatis mutandis to all employees of the Bihar Fire Service including fire officers, operational members, members and subordinate operational staff.

15. Fire officers deemed to be always on duty and liable to employment in any part of State.—Every fire officer shall for all purpose of this Act be deemed to be always on duty and any fire officer or any member or crew of fire officers allocated for duty in any part of the State may, if the Director so directs, at any time, be employed on turn out duty in any other part of the State for so long as the services of the fire officer or any member or crew of fire officers may be required in such other part of Bihar.

16. Extension of Fundamental Rules and Supplementary Rules to employees of Fire Service.—The provisions of the Fundamental Rules and Supplementary Rules as amended by the Bihar Government from time to time, shall be extended mutatis mutandis to all employees of the Bihar Fire Service, including fire officers, operational members, members and subordinate operational staff.

17. Declaration of Fire Service to be an essential service to the community.—(1) Without prejudice to the provisions of any other law on the subject for the time being in

force, the Government may, by notification in the Official Gazette, declare the Fire Service to be an essential service to the community.

(2) A declaration made under sub-section (1) shall remain in force for six months in the first instance, but may be extended from time to time by a like notification.

(3) Upon a declaration being made under sub-section (1) and so long as it remains in force, it shall be the duty of every fire officer to obey an order given by any superior officer in relation to any employment in connection with the service specified in the declaration.

18. Penalty for violation of duty.—Notwithstanding any action which may be taken under the provisions of this Act, any member of the Fire Service who—

(a) is found to be guilty of any violation of duty or willful breach of any provision of this Act or any rule or order made thereunder; or

(b) is found to be guilty of cowardice; or

(c) withdraws or abstains from the duties of his office without permission or without having given previous notice for fifteen days or more; or

(d) being absent on leave fails without reasonable cause to report himself for duty on expiration of such leave; or

(e) accepts any other employment or office or engages himself in business in contravention of the provision of the Bihar Government Servant Conduct Rules, 1976; shall be punishable with imprisonment which may extend to three months, or with, fine which may extend to an amount not exceeding three months pay of such member; or with both;

19. Restrictions respecting right to form association, etc.—(1) No member of the Fire Service shall, without the previous sanction in writing of the Government or of the prescribed authority;

(a) be a member of, or be associated in any way with, any union, labour union, political association or with any class of trade union, labour union or political association;

(b) be a member of, or be associated in any way with any social institution, association, or organization that is not recognized as a part of the Fire Service Or is not a purely of a social, technical, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the bonafide discharge of his duties or is of a purely literary, artistic or scientific character.

Explanation.—(1) If any question arises as to whether any society, institution, association, organization is of a purely social, technical, recreational or religious nature under clause (b) of this sub-section, the decision of the Government thereon shall be final.

(2) No member of the Fire Service shall participate in, or address, any meeting or take part in any demonstration organized by any body or persons-for any political purposes or for such other purposes as may be prescribed.

CHAPTER-IV

LEVY OF FIRE TAX, FEE AND OTHER CHARGES

20. Levy of fire tax.—(1) The Government may levy a fire tax on lands and buildings which are situated in any area in which this Act is in force and on which, property tax, by whatever name it is called, is levied by any local authority in that area.

(2) The fire tax shall be levied in the form of a surcharge on the property tax at such rate in terms of percentage of such property tax as the Government may, by notification in the Official Gazette, determine from time to time.

21. Mode of assessment, collection, etc. of fire tax.—(1) The authorities empowered to assess, collect and enforce payment of property tax under the law, authorizing authority the area such tax shall, on behalf of the Government and subject to any rules made under this Act, assess, collect and enforce payment of the same manner as the property tax is assessed, paid and collected; and for this purpose they may exercise of the powers they have under the law aforesaid to and the provisions of such law including provision relating to returns, appeals, reviews, references and penalties shall apply accordingly.

(2) Such portion of the total proceeds of the fire tax as the Government may determine shall be deducted to meet the cost of collection of the fire tax.

(3) The proceeds of the Fire tax collected under this Act reduced by the cost of collection shall be paid to the Government in such manner and at such intervals as may be prescribed:

22. Fee on deployment of Fire Service beyond the limits of Bihar.—(1) Where members of the fire Service are sent beyond the limits of any area in which this Act is in force, in order to extinguish a fire in the neighbourhood of such limits on the request of any State Government or local body or fire service authority shall be liable to pay such fee as may be prescribed by the Government from time to time in this behalf.

(2) The fee referred to in sub-section (1) shall be payable within one month of the Service of a notice of demand by the Director on the State Government or local body or fire service authority, as the case may be, and if it is not paid within that period, it shall be recoverable as an arrear of land revenue.

23. Reciprocal fire-fighting arrangements with other fire service.—The Director may, with the previous sanction of the Director General Fire Service or the Government, enter into an agreement with any fire service or the authority which maintains the said fire service, beyond the limits of any area in which this Act is in force for providing personnel or equipment or both, for fire fighting purposes, on such terms as may be provided by or under the agreement on reciprocal basis in public interest.

24. Powers of the Director to enter into arrangements for assistance.—The Director may, with the previous sanction of the Director General Fire Service or the Government, enter into arrangements with any person or organization who employs and maintains personnel or equipment or both, for fire fighting purposes, to secure, on such terms as to payment or otherwise as may be provided by or under the arrangements, the provision by that person or organization for assistance for the purpose of dealing with fire occurring in any area in which this Act is in force.

CHAPTER-V

GENERAL MEASURES FOR FIRE PREVENTION AND SELF REGULATION

25. Preventive measures.—(1) The Government may, by notification in the Official Gazette, declare any class of occupancy and pandals which, in its opinion, is likely to cause a risk of fire.

(2) The Government may, by notification in the Official Gazette, require owner or occupiers, or both, of premises or buildings or erectors of pandals notified under sub-section (1), to take such fire prevention and fire safety measures as may be prescribed.

26. Fire prevention and fire Safety measures in the pandals to be self regulatory.—(1) Notwithstanding anything contained in this Act, the erectors of pandals shall be deemed to be self-regulators for taking fire prevention and fire safety measures prescribed under sub-section (2) of Section 25.

(2) The erector of a pandal shall display at a prominent place in the pandal a declaration in the prescribed form and under his own signature to the effect that he has taken all the prescribed fire prevention and fire safety measures therein.

(3) It shall be lawful for the Director, nominated authority or any other officer authorized by the Government or Director General in this behalf to enter and inspect the

pandal with a view to verify the correctness of the declaration so made by the erector under sub-section (2) and to point out the shortcomings, if any, with directions to remove them within a specified time. If the directions of the inspecting officer are not complied with within the time so given, the inspecting officer shall seal the pandal.

(4) Any erector of a pandal who falsely declares that he has complied with the prescribed fire prevention and fire safety measures in the pandal shall be deemed to have committed an offence punishable under Section 52 of this Act.

27. Removal of encroachments or objects or goods likely to cause risk of fire or any obstruction to fire fighting.—(1) Where a notification has been issued under Section 25 it shall be lawful for the Director or any officer of the Fire Service authorized by the Government in this behalf direct the removal of encroachments objects or goods likely to cause a risk of fire or any obstruction to fire fighting, to a place of safety, and on failure of the owner, occupier or erector, as the case may be, to do so, the Director or such officer may, after giving the owner or occupier or erector, as the case may be, a reasonable opportunity of making representation, report the matter to the Sub-Divisional Magistrate, in whose territorial jurisdiction the premises or building or pandal is situated, requesting to adjudicate the matter:

Provided that where the Director considers such encroachments or objects or goods to be an imminent cause of risk of fire or obstruction to fire fighting, he may direct the owner or the occupier or erector of such premises or building to remove the encroachments or objects or goods forthwith and report the matter to the Sub-Divisional Magistrate accordingly.

(2) On receipt of a report under sub-section (1), the Sub-Divisional Magistrate shall give, by means of a notice served in such manner as he may think fit, a reasonable opportunity of showing cause against the removal of encroachment or objects or goods likely to cause a risk of fire or obstruction to fire fighting.

(3) After giving the owner or occupier or erector, as the case may be, a reasonable opportunity of making representation under sub-section (2), the Sub-Divisional Magistrate may make an order to seize, detain or remove such encroachments or objects or goods.

(4) The person charged with the execution of the order as made in sub-section (3) shall forthwith make an inventory of the objects and goods which he seizes under such order, and shall, at the same time, give a written notice as may be prescribed in this behalf, to the person in possession thereof at the time of seizure, that the said objects or goods will be sold as therein mentioned if the same are not claimed within the period stipulated in the said notice.

(5) On the failure of the person in whose possession the objects or goods were at the time of seizure to claim the seized goods pursuant to notice given under sub-section (4), the Sub-Divisional Magistrate shall sell them accordingly by public auction.

(6) Any person aggrieved by any notice or order of the Sub-Divisional Magistrate may, within thirty days from the date of such order, prefer an appeal to the Appellate Authority;

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that there was sufficient cause for not filing it within that period.

(7) An appeal to the Appellate Authority shall be made in such form and shall be accompanied by a copy of the notice or order appealed against and by such fees as may be prescribed:

(8) An order of the Appellate Authority on an appeal under sub-section (7) shall be final.

28. Powers of members of the Fire Service on occasion of fire and/or rescue.—

On the occasion of fire rescue in any area in which this Act is in force, any member of the Fire Service who is in charge of fire fighting operations on the spot may—

- (a) remove, or order any other member of the Fire Service to remove, any person who by his presence interferes with or impedes the operation for extinguishing the fire or for saving life or property;
- (b) close any street or passage in or near which a fire is being fought and/or rescue work is in progress;
- (c) for the purpose of extinguishing fire and carrying out rescue operation, break into or through or pull down, any premises for the passage of hose or appliances or cause them to be broken into or through or pulled down, doing as little damage as possible;
- (d) require the authority in charge of water supply in the area to regulate the water mains so as to provide water at a specified pressure at the place where fire has broken out and utilize the water of any stream, cistern, well or tank or of any available source of water, public or private, for the purpose of extinguishing or limiting the spread of such fire and carrying out rescue operations;
- (e) exercise the same powers for dispersing an assembly of persons likely to obstruct the fire fighting operations as it were an officer-in-charge of a police station and as if such an assembly were an unlawful assembly and shall be entitled to the same immunities and protection as such officer, in respect of the exercise of such powers;
- (f) arrest a person who wilfully obstructs and hinders a fire service personnel in fire fighting and rescue operations and shall hand him over to a police officer or at the nearest police station without avoidable delay along with a brief note giving the time, date and reasons of arrest; and
- (g) generally take such measures as may appear to him to be necessary for extinguishing the fire or for the protection of life or property, or both.

29. Appointment of fire safety officer.—Every owner and occupier or an association of such owners and occupiers of the following classes of buildings or premises shall appoint a fire-safety officer who shall ensure the compliance of all fire prevention and fire safety measures and effective operation thereof as provided in this Act and the rules made thereunder, namely :—

- (a) cinema houses with seating capacity of more than 1000 persons and having commercial complex with built-up area more than 10000 sq. mtr. and building having multiple cinema with seating capacity, taken together, of 1000 persons, or more, whether, having commercial complexes or not;
- (b) hotels with 100 rooms and above;
- (c) underground shopping complexes, district centers, sub-central business districts, including the basement with built up area of more than 25000 sq. mtr.;
- (d) multistoried non-residential buildings above 50 meters in height
- (e) large oil and natural gas installations such as refineries, LPG bottling plants and similar other facilities;
- (f) open stadia with seating capacity more than 50,000 persons and indoor stadia with seating capacity more than 25,000 persons;
- (g) hospitals and nursing homes with more than 500 beds;
- (h) public and semi-public buildings like 'large surface and sub-surface railway stations, interstate bus terminuses, airports amusement parks and other similar buildings;

Provided that the Government may, by notification in the official Gazette, from time to time, include any other premises which in its opinion, require appointment of fire safety officers.

30. Fire safety officers to undergo training.—The fire safety officers shall undergo training at the Fire Safety management Academy as may be specified by the Government in this behalf:

Provided that a person who has already undergone such training at the National Fire Service Collage, Nagpur or at any other equivalent institution recognized by the Government, shall not be required to undergo such a training.

31. Penalty in case of default of non-appointment of fire Safety officer.—(1) If any owner or occupier or an association of such owners and occupiers of a building or premises fails to appoint under section 29, fire safety officer within thirty days, of the receipt of a notice given in this behalf by the Director or the nominated authority, as the case may be, each one of them shall be deemed to be in default jointly and severally.

(2) When the person liable for appointment of such fire safety officer is deemed to be in default, such sum not less than ten rupees per square meter and not exceeding fifty rupees per square meter of area owned or occupied by him including in the common areas in the premises as determined by the Director, may be recovered from him by way of penalty for each month of default or part thereof.

(3) The amount due as penalty under sub-section (2) shall be recovered as an arrears of land revenue.

CHAPTER-VI

SPECIAL PROVISION FOR THE FIRE PROTECTION AND FIRE SAFETY MEASURES IN CERTAIN BUILDINGS AND PREMISES IN BIHAR

32. Special provision for multistoried building.— Notwithstanding anything contrary to the provision contained in this Act, the multistoried buildings shall be governed by the provisions of the fire prevention and fire safety measures hereinafter stipulated. The Govt. may registered Fire Consultant or appoint Fire Advisor for implementation of Fire Prevention measures in multi-storied building & for special premises as prescribed by rules framed under this act.

33. Inspection of buildings, premises, etc.—(1) The nominated authority may, after giving three hours notice to the occupier, or if there be no occupier, to the owner of any building having such height as may be specified by rules framed under this Act or premises, enter and inspect the said building or premises at any time between sunrise and sunset where such inspection appears necessary for ascertaining the adequacy or contravention of fire protection and fire safety measures:

Provided that the nominated authority may enter into and inspect any building or premises at any time if it appears to it to be expedient and necessary to do so in order to ensure safety of life and property.

(2) The nominated authority shall be provided with all possible assistance by the owner or occupier, as the case may be, of the building or premises for carrying out the inspection under sub-section (1).

(3) When any building or premises used as a human dwelling is entered under sub-section (1) due regard shall be paid to the social and religious sentiments of the occupiers; and, before any apartment in the actual occupancy of any women who, according to the custom does not appear in public, is entered under sub-section (1), notice shall be givens to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

34. Measures for fire prevention and fire safety.—

(1) The nominated authority shall, after the completion of the inspection of the building or premises under Section 33 record its views or the deviations from or the contravention of the building bye-laws with regard to the fire prevention and fire safety measures and the inadequacy of such measures (provided therein with reference to the height of the building or the nature of activities carried on in such building or premises

and issue a notice to the owner or occupier of such building or premises directing him to undertake such measures as may be specified in the notice.

(2) The nominated authority shall also give a report of any inspection made by it under Section 33 to the Director.

35. Provision regarding certain building and premises.—(1) Notwithstanding anything contained in any other law for time being in force the Director or the nominated authority may enter and inspect any building, the construction of which was completed on or before the commencement of this Act or any building which was under construction on such date in such inspection appears necessary for ascertaining the adequacy of fire prevention and fire safety measures in such buildings.

(2) The entry and inspection under sub-section (1) shall be done by the Director or the nominated authority in the manner laid down in Section 33.

(3) The Director or the nominated authority, as the case may be, shall, after inspection of the building or premises under sub-section (1), and after taking into consideration.—

- (i) the provisions of the building bye-laws in accordance with which the plan of this said building or premises was sanctioned;
- (ii) the conditions imposed, if any, by the local authority at the time of the sanction of the plan of the said building or premises; and
- (iii) the minimum standards for fire prevention and fire safety measures specified for such building or premises as may be specified by rules framed under this Act;

issue a notice to the owner or occupier of such building or premises stating therein the inadequacy in regard to the fire prevention and fire safety measures in it and direct the owner or occupier to undertake measures for rectifying the said inadequacy within the period as he may consider just and reasonable.

(4) The nominated authority shall also give a report of any inspection made by it under sub-section (1) to the Director.

36. Appeals.—(1) Any person aggrieved by any notice or order of the nominated authority or the Director issued or made under this chapter may prefer an appeal against such notice or order to the Appellate Authority within thirty days from the date of the notice or order appealed against:

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of thirty days if he is satisfied that there was sufficient cause for not filing it within that period.

(2) An appeal to the Appellate Authority shall be made in such form and shall be accompanied by a copy of the notice or order appealed against and by such fees as a may be specified by rule framed under this Act.

(3) An order of the Appellate Authority on an appeal under sub-section (1) shall be final.

37. Penalties for violation of provisions of Chapter VI.—Whoever contravenes any provision of this Chapter shall, without prejudice to any other action taken against him under this Act and rules made there under, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both and where the offence is a continuing one with a further fine which may extend to three thousand rupees for every day after the first during which such offence continues.

CHAPTER-VII

MISCELLANEOUS

38. Establishment of fire training institute.—

(1) The Government may establish and maintain fire training institute in Bihar to be known as the “Fire Safety Management Academy” for providing courses of instruction in the prevention and extinguishment of fire of the Fire Service personnel and private candidate from industries, hotels, multi-storied buildings and similar others government and non-government establishments as specified in section 29.

(2) The Government may extend the training facilities at the academy to be established under sub-section (1) to the fire services under the control of local bodies and industrial undertakings as well as to the state fire services of other States on payment of charges as may be prescribed.

(3) Subject to the observance of the general rules applicable to other employees of the Government in relation to training, the members of the Fire Service may be given training in the field of scientific and modern techniques of fire protection and fire safety measures, and allied matters in any institute, within or out of India at the cost and expense of the Government for the administration of the provisions of this Act.

(4) A fire officer who undergoes training as provided in sub-section (3), shall indemnify the Government to reimburse all such expenses and costs, including the pay and allowances as may be paid to him during the course of training, if he does not serve the Fire Service for a stipulated tenure binding on him in this behalf.

39. Transfer to other area.—The Director or any fire officer authorized by the Government in this behalf may, on the occasion of a fire or other emergency in any neighbouring area in which this Act is not in force, order the dispatch of the members of the Fire Service with necessary appliances and equipment to carry out fire fighting operations in such neighboring area and thereupon all the provisions of this Act and the rules made there under shall apply to such areas, during the period of fire emergency or during such period as the Director may specify on such charges as may be prescribed from time to time.

40. Employment on other duties.—It shall be lawful for the Government or any officer authorized by it in this behalf, to employ the Fire Service in any rescue, salvage or other works for which it is suitable by reason of its training, appliances and equipment.

41. Liability of property owner to pay compensation.—(1) Any person whose property catches fire on account of an action of his own or of his agent done deliberately or negligent shall be liable to pay compensation to any other person suffering damage to his property on account of any action taken under Section 28 of this Act or by the officer mentioned therein or any person acting under the authority of such officer.

(2) All claims under sub-section (1) shall be preferred to the Appellate Authority, within thirty days from the date when the damage was caused.

(3) The Appellate Authority, shall, after giving the party an opportunity of being heard, determine the amount of compensation due and pass an order stating such amount and the person liable for the same, and the order so passed shall have the force of a decree of a Civil Court.

42. Power to obtain information.—The Director or any fire officer, authorized by general or special order in this behalf, may, for the purpose of discharging his duties under this Act, require the owner or occupier of any building or other property as may be specified, to supply information with respect to the character of such building or other property as may be specified, the available water supplies and means of access thereto any other material particulars, and such owner or occupier shall furnish all the information in his possession.

43. Power of entry.—

(1) The nominated authority may enter any of the places specified in any notification issued under sub-section (1) of Section 25 for the purpose of determining whether preventive and safety measures against fire required to be taken on such place have been so taken.

(2) The nominated authority shall, after the completion of the inspection of the building or premises under sub-section (1) record its views on the deviations from or the contravention of, the notification issued under subsection (2) of Section 25 with regard to the fire prevention and fire safety measures and the inadequacy of such measures provided therein with reference to the occupancy of the building or the nature of activities carried on in such building or premises and issue a notice to the owner or occupier or such building or premises directing him to undertake such measures as may be specified in the notice.

(3) The nominated authority shall also give a report of any inspection made by it under sub-section (1) to the Director.

(4) Save as otherwise expressly provided in this Act, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1).

44. Power to seal buildings or premises.—

(1) Where, on receipt of a report from the nominated authority under sub-section (2) of Section 34 or sub-section (4) of Section 35 or sub-section (3) of Section 43, or suo-moto, it appears to the Director that the condition of any building or premises is dangerous to life or property, he shall, without prejudice to any action taken under this Act, by order, require the person in possession or occupation of such building or premises to remove themselves from such building or premises forthwith.

(2) If an order made by the Director under sub-section (1) is not complied with, the Director may direct any police officer having jurisdiction in the area to remove such persons from the building or premises and such officer shall comply with such directions.

(3) After the removal of the persons under sub-section (1) or sub-section (2), as the case may be, the Director shall seal the building or premises.

(4) No person shall remove such seal except under an order made by the Director.

(5) Any person who removes such seal except under an order made by the Director, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to twenty five thousand rupees, or with both.

45. Compensation of water.—No charge shall be made by any local authority for water consumed in fire fighting operations by the Fire Service.

46. No compensation for interruption of water supply.—No authority in charge of water supply in any area shall be liable to any claim for compensation for damage by reason of any interruption of supply of water occasioned only by compliance of such authority with the requirement specified in clause (d) of section 28.

47. Police officers and others to aid.—Every police officer, government and private agency or person is bound to assist the members of the Fire Service reasonably demanding his or its aid in the execution of their duties under this Act.

48. Failure to give information.—Any person who without just cause fails to communicate information in his possession regarding an outbreak of fire shall be deemed to have committed an offence punishable under the first part of Section 176 of the Indian Penal Code, 1860 (45 of 1860).

49. Failure to take precautions.—Whoever fails without reasonable cause to comply with any of the requirements specified in a notification issued under sub-section (1) of Section 25 or a direction issued under sub-section (2) of that section shall be punishable with fine which may extend to ₹ 1000 (Rs. one thousand) or with

imprisonment for a term which may extend to three months, or with both and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first during which such offence continues.

50. Penalty for wilfully obstructing the fire fighting, rescue operations.—Any person who wilfully obstructs or interferes with any member of the Fire Service who is engaged in fire fighting operations, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

51. False report.— any person who knowingly gives or causes to be given a false report of the outbreak of a fire to any person authorised to receive such report by means of a statement, message or otherwise shall be, punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees, or with both.

52. General provision for punishment for offence.—Whoever contravenes any provision of this Act or of any rule or notification made there under shall, without prejudice to any other action taken against him under this Act and the rules made there under, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and where the offence is a continuing one with a further fine which may extend to five hundred rupees for every day after the first during which such offence continues.

53. Fire Service functioning in Bihar immediately before the commencement of this Act to be deemed to be Fire Service Constituted under this Act.—Without prejudice to the provisions contained in any other law for the time being in force.

(a) the fire service functioning in Bihar before the commencement of this Act “the existing Bihar Fire Service” shall, on such commencement, be deemed to be the Fire Service constituted under this Act and every member of the existing Bihar Fire Service holding the office, shall be deemed to be appointed and to hold the office, under this Act;

(b) all proceedings pending before any fire officer of the existing Bihar Fire Service, immediately before the commencement of this Act be deemed to be proceedings pending before him in his capacity as the holder of the office to which he is deemed to be appointed under clause (a) and shall be dealt with accordingly.

54. Compounding of offences.—(1) Any offence whether committed before or after the commencement of this Act punishable under sections 26,27,31,37,44,48,49, 50,51 and 52 or any rule made under this Act, may be compounded by such officers of the Fire Service and for such amount as the Government may, by notification in the Official Gazette, specify in this behalf:

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Government or of any of the officers authorized under this Act and until the same has been complied with so far as the compliance is possible.

(2) Where an offence has been compounded under sub-section (1), the offender if in custody, shall be set at liberty and no proceeding shall be instituted or continued against him in respect of such, offence.

55. Bar of jurisdiction of Court.—No court shall entertain any suit, application or other proceedings in respect of any notice or order under this Act and no such notice or order shall be called in question otherwise than by preferring an appeal under this Act.

56. Cognizance for prosecution.—No court shall proceed to the trial of an offence under this Act, except on the complaint of, or upon information received from, the Director or the officer authorized by him in this behalf.

57. Jurisdiction .—No court inferior to that of a Judicial Magistrate first class shall try an offence punishable under this Act.

58. Protection of action taken in good faith—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made there under.

59. Special promotion to the subordinate operational staff.—To encourage outstanding sportsmen, marks men, officers and other subordinate staff who have shown exceptional gallantry and devotion to duty in saving the life and property, the Director may, with the prior approval of the Government, promote such officers out of turn to the next higher rank provided vacancies exists. Such promotions shall not exceed ten percent of the sanctioned strength in such ranks. For purposes of seniority such promotes shall be placed at the bottom of the promotion list drawn up for that year.

60. Death of member of Fire Service.—In the event of a member of the Fire Service (other than a gazetted officer), dying while on active duty, the Government shall pay, subject to the maximum limit of ₹ 5000 (Rs. five thousand) to the next of kin as funeral expenses.

61. Officers to be public servants.— Every officer acting under the provisions of this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

62. Offences by companies.—(1) Where an offence under this Act has, been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part, of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—for the purposes of this section,

(a) “Company” means a body corporate and includes a firm or other association of individuals; and

(b) “Director”, in relation to a firm, means a partner in the firm.

63. Power to make rules/Regulations :—(1) The Government may by notification in the Official Gazette, make rules/regulations 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) recruitment to, and the pay, allowances and all other conditions of service of the members of the Bihar Fire Service under clause (b) of Section 5;
- (b) constitution of fire division comprising such numbers of fire sub-divisions under clause (a) of Section 9;
- (c) constitution of fire sub-divisions comprising such numbers of fire stations under clause (b) of Section 9;
- (d) Form of certificate of appointment and fire officer under whose seal such certificate of appointment shall be issued under sub-section (2) Of Section 10;

- (e) Purposes of meetings or demonstrations under sub-section (2) of Section 19;
- (f) Mode of assessment, collection and enforcement of payment of fire tax levied under Section 21;
- (g) Manner in which fire tax collected under Section, 21 shall be paid to Government;
- (h) fee on deployment of Fire Service beyond the limits of Bihar under sub-section (1) of Section 22 and under Section, 39;
- (i) terms for reciprocal firefighting arrangements with other fire services under Section 23;
- (j) the minimum standards for fire prevention and fire safety measures for the purposes of subsection (2) of Section 25, Section 32 and-clause (i) of sub-section (3) of Section 35;
- (k) form of declaration under sub-section (2) of Section 26;
- (l) form of notice under sub-section (4) of Section 27;
- (m) the height of the building under sub-section (1) of Section 33;
- (n) form of appeal and fees under sub-section (7) of Section 27 and sub-section (2) of Section 36;
- (o) charges for extending training facilities at Fire Safety Management Academy to others under sub section (2) of Section 38 ;
- (p) officers of the Fire Service, and the amount for compounding of offenses under sub-section (1) of Section 54;
- (q) making available to the Fire Service with such, appliances and equipment as it deems proper;
- (r) the adequate supply of water to securing that it shall be available for use;
- (s) constructing or providing fire stations or hiring places for accommodating the members of the Fire Service and its fire fighting appliances;
- (t) giving rewards to persons who have given notice of fires and to those who have rendered effective service to the Fire Service on the occasion of fires;
- (u) the training, discipline and good conduct of \ the members of the Fire Service;
- (v) speedy attendance of members of the Fire Service with necessary appliances and equipment on the occasion of any alarm of fire;
- (w) regulating and controlling the powers, duties and functions of the Director;
- (x) generally, for the maintenance of the Fire Service in a due state of efficiency;
- (y) regulating installation of pandals and shamianas;
- (z) writing of confidential reports fire officers;
- (za) determining the description and quantity of fire fighting and rescue equipment including appliances clothing and other necessities to be furnished to the Fire Service;
- (zb) institution, management and regulation of any fire service fund for any purpose connected with policy administration;
- (zc) assigning duties to fire officers of all ranks and grades, and prescribing the manner in which and the conditions subject to which, they shall exercise and perform their respective powers and duties;
- (zd) generally, for the purposes of rendering the Fire Service efficient and preventing abuse or neglect of their duties;
- (ze) and any other matter which is required to be, or may be, provided by rules.

64. Laying of rules and regulations before both the houses of the Legislature of the State of Bihar :- Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before both Houses of legislature, while it is in session, for a total period of 14 days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the

session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall there after 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 of regulation.

65. Delegation of powers.—(1) The Government may by notification in the Official Gazette direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification be exercisable by any of the officers of the Government.

(2) The Director may, by order, direct that any power conferred or any duty imposed on him by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised and, performed also by any officer of the Fire Service specified in the order.

66. Repeal and Savings.—(1) The Bihar Fire Service Act, 1948 (Bihar Act 37, 1948) is hereby repealed.

(2) Notwithstanding such repeal, the following general responsibilities of any Local Authority shall not be deemed to be limited, modified or derogated:-

- (a) to provide and maintain such water supply and fire hydrants for fire fighting purposes as may be directed by the Government from time to time;
- (b) to frame bye-laws For the regulation of dangerous trades;
- (c) to order any of its employees to render aid in fighting a fire when reasonably called to do so by any member of the Fire Service; and
- (d) generally to take such measures as will lessen the likelihood of fires or preventing the spread of fires.

67. Power to Remove Difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

(2) Every order made under this Section shall be laid, as soon as may be after it is issued, before the Legislative Assembly of Bihar.”

Aims and Object

The Bihar Fire Service Act, was passed in 1948 “To make provisions for the better regulation of the fire fighting organisation in the province of Bihar and for the constitution of a provincial fire service to carry out fire fighting measures”, but there was no enactment for fire prevention and fire safety in the State. This Act also did not provide any statutory power to the Bihar Fire Service to enforce fire safety measures in any building, nor it is mandatory to obtain fire safety certificate before occupancy of any building. The present bill is to provide modern organisational structure of Bihar Fire Service, enforcing effective fire prevention & fire safety in all types of building, premises and temporary structure in the State of Bihar. This is the main object of this Bill.

(Nitish Kumar)
Member In-charge