

ORDER
WP No 817/2008 dated 11.04.2012

1. It is just and necessary that survey of lakes and tanks in Karnataka have to be undertaken by demarcating the boundaries and to make proper fencing. **(Ref: u/S 6(1) & (6) of the Bill)**
2. The unauthorized construction within the 30 mtrs of peripheral lake area have to be removed. **(Ref: u/S 5 (1) and u/S 12(3) of the Bill)**
3. Removal of silt as also, scientific de-weeding for the rejuvenation of some of the tanks and proper embankments have to be done periodically. **(Ref: u/S 5(7) and (13) of the Bill)**
4. Flow of sewerage water into lakes and tanks have to be stopped. The channels, which feed the lakes, have to be properly protected and maintained. **(Ref: u/S 12(2) (5)of the Bill)**
5. The forest department shall undertake to plant the trees and saplings in the buffer area of the lake. **(Afforestation has been mentioned in the Bill Ref: u/S 5 (7) of the Bill)**
6. The Commissioner of BBMP shall be responsible for the proper maintenance and development of the lakes within the BBMP area. **(Ref: u/S 13 (1) and (2) of the Bill)**
7. For the Bangalore Metropolitan Area, the Commissioner, Bangalore Development Authority, the Chief Executive officer, Lake Development Authority and Deputy Conservator of Forest shall be the Committee for proper maintenance and development of lakes in Bangalore Metropolitan area. **(Ref: u/S 6(5) of the Bill)**
8. In respect of City Municipal Corporation, the Deputy Commissioner of District, the Commissioner of City Municipal Corporation and Commissioner of Urban Development Authority shall be the Committee responsible for proper maintenance and development of lakes within the City Municipal Corporation area. **(Ref: u/S 6(5) of the Bill)**
9. In respect of municipal areas, the Deputy Commissioner of District, the Commissioner of Municipality and District Water Resources Officer shall be the members of the Committee and they shall be

responsible for proper maintenance and development of lakes situated in for municipal and Taluka areas. **(Ref: u/S 6(5) of the Bill)**

10. There shall be an Apex Committee consisting of Principal Secretary, Department of Revenue, Chief Executive Officer, Lake Development Authority and Member Secretary of State Legal Services Authority who shall oversee and supervise the maintenance of lakes by above stated committees. The above stated Committees shall send quarterly report about the maintenance and development of lakes to the Apex Committee, which shall supervise the development and maintenance of lakes. The Apex Committee can also entertain complaints and give proper directions to concerned committees for proper maintenance and development of lakes. **(Ref: u/S 6(5) of the Bill)**

11. The first respondent is directed to comply the above said directions by passing necessary orders in accordance with law for ensuring proper preservation, maintenance and development of lakes.

In the terms indicated above, the Writ petitions are disposed of.

KARNATAKA LAKE DEVELOPMENT AUTHORITY BILL - ~~2012~~ 2013

A Bill to provide for establishment of a Lake Development Authority and other matters connected therewith or incidental thereto;

Whereas, the Apex Court has already ruled that right to water is a part of right to life guaranteed by Article 21 of the Constitution of India;

Whereas, due to rapid urbanisation, industrialisation and population explosion, water bodies like tanks and lakes are being converted into urban and industrial land use after breaking bund and draining water;

Whereas, such destruction of water bodies leads to acute shortage of water and rapid depletion of ground water and thereby affecting availability of water for irrigation, drinking and consumption by live stock, besides affecting aquatic flora and fauna and accordingly there is an urgent need for protection, conservation and rejuvenation of water bodies;

And now therefore, it is expedient to provide for establishment of a Lake Development Authority having necessary powers and functions to

achieve the object of protection, conservation and rejuvenation of water bodies like tanks, lakes, wet lands and their catchment areas, inlets and outlets for ensuring long term sustenance of such water bodies, and for other matters connected therewith or incidental thereto.

Be it enacted by the Karnataka State Legislature in the sixty ~~third~~ **fourth** year of the Republic of India as follows:

CHAPTER 1:

PRELIMINARY

1. Short title extent and commencement

- (1). This Act may be called the Karnataka Lake Development Authority Act, ~~2012~~ **2013**;
- (2). It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.
- (3). It applies to all the lakes in the Karnataka State located within all Municipal Corporations, City Municipal Councils, Town Municipal Councils, Urban Development Authorities, Planning Authorities, any other notified bodies and lakes notified by the Government from time to time.

2. Definitions: **(1)** In this Act, unless the context otherwise requires,

- (a) “**Authority**” means the Karnataka Lake Development Authority constituted under section 3;
- (b) “**Authorized officer**” means any officer appointed by the Government under section 11;
- (c) “**Chief Executive Officer**” means the Chief Executive Officer appointed under section 8;
- (d) “**Designated Officer**” means any officer appointed or designated by the Authority under section 10;
- (e) “Empowered Officer” means any officer appointed under section 12;**
- (f) “**Government**” means the Government of Karnataka;
- (g) “**industry**” includes any operation or process or treatment and disposal system, which consumes water or any other liquid or gives rise to sewage effluents or trade effluents, but does not include any hydro power unit;

(h) **“lake”** means an inland water-body irrespective of whether it contains water or not, mentioned in revenue records as sarkari kere, kharab kere, kunte, katte or by any other name and includes the peripheral catchment areas, inlets, bunds, weirs, sluices, draft channels, outlets and the main channels of drainages to and fro;

(i) **“landscape”** includes all forms of trees, shrubs, grasses whether naturally growing or planted in water bodies to enhance aesthetic value;

(j) “notification” means a notification published in the Official Gazette;

(k) “member” means a member of the Lake Development Authority, specified in Section 3(3) and includes the Chairman;

(l) “research” means study or systematic investigation on all the relevant issues pertaining to lakes;

(m) **“surface water”** includes water occurring on the land of lakes as defined above.

(2) Words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964).

CHAPTER 2:

THE LAKE DEVELOPMENT AUTHORITY

3. Constitution of the Authority:

(1) As soon as may be after the date of commencement of this Act, the Government shall constitute an Authority to be called the Karnataka Lake Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act to hold property and shall by the said name sue or be sued;

(3) The Authority shall consist of the following members; namely:-

(a) The Chief Secretary to Government shall be the Chairperson of the authority;	
(b) The Principal Secretary to Government, Finance Department;	Ex-officio Member
c) The Principal Secretary to Government,	Ex-officio Member

Forest, Ecology and Environment Department;	
(d) The Principal Secretary to Government, Urban Development Department;	Ex-officio Member
(e) The Principal Secretary to Government, Minor Irrigation Department;	Ex-officio Member
(f) The Principal Secretary to Government, Animal Husbandry and Fisheries Department;	Ex-officio Member
(g) The Principal Secretary to Government, Revenue Department;	Ex-officio Member
(h) The Chairman, Karnataka State Pollution Control Board, Bangalore;	Ex-officio Member
(i) The Chairman, Bangalore Water Supply and Sewerage Board, Bangalore;	Ex-officio Member
(j) The Commissioner, Bangalore Development Authority, Bangalore;	Ex-officio Member
(k) The Commissioner, Bruhat Bangalore Mahanagara Palike, Bangalore;	Ex-officio Member
(l) Three non-official members appointed by the Government from amongst experts <u>having special knowledge and/ or experience</u> in the field of environment and ecology or lake conservation of whom at least one shall be a woman and one shall be a person belonging to the Scheduled Castes or Scheduled Tribes.	Non-official Member
(m) The Chief Executive Officer, of the Authority, Bangalore	Member Secretary

(4) Subject to the pleasure of the Government, term of office of non-official members of the Authority shall be three years and they shall not be eligible for re-appointment.

(5) The non-official members shall be entitled to receive such allowances as may be prescribed.

(6) The Government may remove from the Lake Development Authority any member who, in its opinion, has-

(1) been adjudged as an insolvent; or

(2) been convicted of an offence which involves moral turpitude; or

(3) become physical or mentally incapable of acting as a member: or

(4) so abused his position as to render his continuance in office detrimental to the public interest; or

(5) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

4. Meetings of the Authority:

(1). The Authority shall meet at least once in three month;

(2). The Chairperson shall preside over the meeting of the Authority or if for any reason he is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside.

(3). Quorum for a meeting of the Authority shall be one third of the total number of members.

(4). Save as otherwise expressly provided by or under this Act, the procedure for conduct of business at the meeting of the Authority shall be such as may be specified in the regulations.

5. Functions of the Authority:-

Subject to the provisions of this Act and the rules made thereunder, the functions of the Authority shall be :

(1) to exercise regulatory control over all the lakes within its jurisdictions including prevention and removal of encroachment of lake;

(2) to protect, conserve, reclaim, regenerate and restore lakes to facilitate recharge of depleting ground water by promoting integrated approach with the assistance of concerned Government departments, local and other authorities;

(3) to take up environmental impact assessment studies for any or all lakes.

(4) to take up environmental planning and mapping of lakes and their surrounding areas with the help of geographical information system and prepare database and atlas of lakes and their catchments ;

- (5) to prepare a plan for integrated development of lakes;
- (6) to improve and also create habitat (wetlands) for aquatic biodiversity, water birds and aquatic plants by reducing sillage and non-point sewage impacts;
- (7) to facilitate for impounding storm water drainage system, reduce or remove siltation of lakes by taking up appropriate soil and water conservation measures including afforestation and to augment recharge of ground water aquifers and revive bore-wells;
- (8) to improve and monitor water quality, conserve lake ecology on need basis and to protect them against domestic and industrial pollution;
- (9) to utilize or allow to utilize the lakes for the purpose of drinking water, irrigation, education or tourism or any other purpose as the Authority may determine;
- (10) to encourage participation of communities and voluntary agencies and to launch public awareness programmes for lake conservation, preservation and protection;
- (11) to advise on any matter that may be referred to it by the Government or any institution.
- (12) to promote integrated and coordinated applied research on all the relevant issues pertaining to lakes;
- (13) to do such other acts as the Authority may consider necessary, conducive or incidental, directly or indirectly, to achieve the object of this Act.

6. Powers of the Authority:

Subject to the provisions of this Act and the rules made thereunder, powers of the Authority shall be:-

- (1) to cause entry upon or authorize any officer to enter upon any land, to survey, demarcate and make a map of lakes;
- (2) to receive grants, donations, contributions, deposits and rents, and to levy fees or charges for development and maintenance of lakes at such rates approved by the Government;
- (3) to grant technical approval to any project proposal made by any Government Department or organization or association or person interested in developing, maintaining, conserving or protecting a lake and also to take up such activities on its own which shall be approved by the Government;
- (4) to invite experts as and when required to its meetings;

(5) to constitute sub-committees as may deemed necessary for the purpose of research, implementation, studies, approval of projects, conservation, preservation, protection and any other purpose relating to lake; and

(6) to take up survey of lake boundary, detect encroachment if any and to remove encroachments and erect boundary pillars and to fence them to prevent encroachment of the lake.

7. Powers of Chair Person:

The Chair person shall be the non executive head of the Authority and shall:-

- (a) convene, preside **at over** and conduct meetings of the Authority;
- (b) discharge all duties conferred and exercise all powers conferred on him by or under this Act;

8. Chief Executive Officer:

(1) The Government may appoint an officer not below the rank of a Principal Secretary to the Government or equalent officer to be the Chief Executive Officer of the Authority.

(2) Subject to the general powers of the Authority, and the Chair person overall powers for the purpose of carrying out the provisions of this Act and any other law for the time being in force which imposes a duty or confers any powers on the Authority shall vest in the Chief Executive Officer and who shall also -

- (a) perform all the duties and exercise all the powers imposed or conferred upon him by or under this Act or under any other law for the time being in force;
- (b) carry into effect the resolutions of the Authority;
- (c) conduct all affairs of the Authority;
- (d) supervise and control execution of all schemes and works of the Authority or entrusted by the Government or any other Authority;
- (e) draw and disburse monies out of the fund of the Authority;
- (f) exercise control over the officers and officials of the Authority;
- (g) authenticate by his signature all permissions, orders, decisions, notices and other documents or of the Authority;

(h) exercise such other powers and discharge such other functions and perform such other duties as may be prescribed.

9. Officers and other employees of the Authority:

(1) The Government shall provide the Authority with such officers and employees as may be necessary for the efficient discharge of the functions of the Authority.

(2) The method of recruitment, the salaries and allowances payable to and other terms and conditions of service of the officers and other employees appointed for the purpose of the Authority shall be such as may be prescribed.

10. Designated officer:

(1) The Authority may designate or appoint any officer as Designated Officer to be in-charge of one or more lakes to ensure their protection, conservation, development and for any other purpose.

(2) The Designated Officers shall exercise powers under this Act and such other powers as the Authority may by a special or general order confer upon them.

11. Authorized Officer:

The Government may appoint an officer not below the rank of a Group 'A' officer of the State Civil Services as Authorised officer who shall exercise powers under this Act and such other powers as may be specified by the Government from time to time.

12. Empowered Officer:

The Authority may designate or appoint any officer as the Empowered Officer to carry out any of the works assigned to the Designated officer.

CHAPTER 3:

PROTECTION OF LAKES:

12. (13) Acts prohibited in lakes:

Notwithstanding anything to the contrary contained in any law for the time being in force, no person or institution or organization (registered or unregistered) or company or firm or association, Government departments, Corporation or any local or other authority and their agents or employees or any body on their behalf shall:

- (1) use the lake for any purpose other than storage or impounding of water or for the purpose mentioned in clause (9) of section 5;
- (2) construct any structure on lake land, occupy any lake land or part thereof or cause any obstruction at the natural or normal course of inflow or outflow of water into, or from, the lakes on the upstream and or downstream;
- (3) construct any commercial, recreational or industrial complexes or houses or carry on any industrial activity within thirty meters from the outer boundary of the lake;
- (4) dump debris, municipal solid wastes, mud or earth soil or liquid wastes or any pollutants, into the lake by using vehicle or otherwise;
- (5) discharge untreated sewage into the lake directly or indirectly;
- (6) construct roads, bridges and likewise other structures within the lake area including the tank bund;
- (7) breach bund, waste weir including lowering the height of the waste weir from its original height or remove fence, boundary stones or any hoarding or any sign board erected by the Authority; and
- (8) do any other act which is detrimental directly or indirectly to the lakes.

Provided that nothing in this Act shall prohibit withdrawal of water for drinking or irrigation or any other purpose for human consumption from any lake be specified by the Authority from time to time.

Provided further that nothing in this Act shall prohibit stocking of fish seeds and development of fisheries (except the fish which are dangerous or harmful to the aquatic eco-system of the lake) by the Government and its licensee, lessees or contractor in any lake specified by the Authority from time to time.

13.(14) Protection of lakes:

- (1) The Authority may direct any Officer of the Government or any local or other authority who is the custodian, or in control, of any lake to permanently demarcate its boundaries and to take such other measures as may be necessary at their own cost.
- (2) The Authority may issue general or specific directions to any officer of the Government department or any local or other Authority who is the custodian or in control of any lake to take such measures as are necessary and expedient to remove encroachment or unauthorized occupation of such lake and prevent its recurrence.
- (3) The Authority may by order specify any lake as a heritage site or bio-conservation site or protected site, or reserve it for any special

purpose in view of its historical, ecological or environmental importance and prevent from being put to any other alternate use and may specify its utilization, if any.

14. (15) Seizure of property liable for confiscation:

(1) When there is reason to believe that an offence punishable under section 23 has been committed, any instrument, implement, machinery, device, tool, boat, vehicle or any other material or object used in committing any such offence, may be seized by the Designated Officer or any other officer empowered by the ~~Authorised/Authority~~ in this behalf (~~hereinafter referred to as empowered officer~~).

(2) The Designated officer or Empowered Officer seizing any property, vehicle, material or object under sub-section (1) shall place on them a mark indicating that the same has been so seized and shall as soon as may be, make a report of such seizure to the Magistrate/**Authorized Officer** having jurisdiction to try the offence on account of which the seizure is made.

Provided that where the seized property, vehicle, material or object is believed to belong to the Central or the State Government or a local or other authority or if the offender is unknown, the Designated Officer or Empowered Officer shall report to the Chief Executive Officer.

(3) The arrested persons shall be produced before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

15. (16) Power to release property seized under section 14

Where the seized property is such that it cannot be conveniently be produced before the Magistrate or the Authorized Officer as the case may be, it may be released by the Chief Executive officer to the owner thereof on his executing a Bank guarantee and a bond undertaking to produce the property so released if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made or before the Authorised officer.

16.(17) Confiscation by the Authorized officer:

(1) The Designated Officer or Empowered Officer seizing the property under section 14 shall, without any unreasonable delay produce the property, before the Authorized Officer;

(2) When any seized property is produced before the Authorised Officer and he is satisfied that an offence punishable under section 23 has been committed using such property, the Authorised Officer may whether or not a prosecution is instituted for the commission of such offence, order confiscation of the property so seized ;

(3) Where the Authorised Officer, passing an order of confiscation under sub-section (2) is of the opinion that it is expedient in the public interest so to do, he may order confiscated property or any part thereof to be sold in public auction;

(4) Where any confiscated property is sold, as aforesaid, the proceeds thereof, after deduction of expenses of any such auction or other incidental expenses relating thereto, shall, where the order of confiscation made under sub-section (2) is set aside or annulled by an order under Section 18 or 19 be paid to the owner thereof or to the person from whom it was seized, as may be specified in such order.

17.(18) Issue of show cause notice before confiscation:

(1) No order confiscating any instrument, implement, machinery, device, tool, boat, vehicle or any other-property shall be made under section 16 except after giving notice in writing to the person from whom it is seized and considering his objections, if any.

Provided that no order confiscating a motor-vehicle shall be made except after giving a notice in writing to the registered owner thereof, if in the opinion of the Authorised Officer, it is practicable to do so, and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any instrument, implement, machinery, device, tool, boat, vehicle or any other-property shall be made if the owner of the instrument, implement, machinery, device, tool, boat, vehicle or any other-property proves to the satisfaction of the Authorized Officer that it was used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the instrument, implement, machinery, device, tool, boat, vehicle or any other-property and that each of them has taken all reasonable and necessary precautions against such use.

18. (19) Revision:

The Chief Executive Officer may before the expiry of thirty days from the date of the order of the Authorised Officer under section 16, suo motu call for and examine the records of that order and may make such inquiry or cause such inquiry to be made and may pass orders as he deems fit.

19. (20) Appeal:

(1) Any person aggrieved by an order passed under Section 16 or Section 18 may within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property in respect to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the Authorized Officer, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under this section shall be final and shall not be questioned in any court of law.

20.(21) Order of confiscation not to interfere with other punishments:

The order of any confiscation under section 16 or 18 or 19 shall not prevent the infliction of any punishment to which the person prosecuted thereby is liable under this Act.

21. (22) Property confiscated when to vest in the Government.

When an order for confiscation of any property has been passed under Section 16, 18 or 19 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof (or if it has been sold under sub-section (3) of section 16 the sale proceeds thereof) as the case may be, shall vest in the Government free from all encumbrances.

Provided that no such order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

22. (23) Power to remove encroachment:

(1) Notwithstanding anything contained in the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974 (Karnataka Act 32 of 1974) any person who is found to be unauthorisedly occupying any lake land or part thereof may, without prejudice to any other action that may be taken against him under any other provisions of this Act, or any other law for the time being in force, be summarily

evicted by the Designated Officer or any other officer authorised by the Authority in this behalf.

Provided that no person shall be evicted under this sub-section without giving a reasonable opportunity of being heard.

(2) Every order for eviction passed under sub-section (1) shall be in writing and shall be served on the person unauthorizedly occupying lake land by tendering or delivering a copy thereof to such person or by sending a copy thereof by registered post or if he refuses to receive it or evades service, by pasting it on a prominent part of the property in occupation by him or by publication in a news paper having wide circulation in the area.

(3) Any crop including trees raised in the lake land and any buildings or other construction erected thereon by the unauthorized occupant shall also, if not removed by him within thirty days of the order of eviction passed in sub section (1) be liable to forfeiture or to summary removal.

(4) Any property forfeited under sub-section (3) shall vest in the Authority and which may dispose it of in such manner as deemed fit and the cost of removal of any crop, trees, building or other construction and the expenditure incurred for restoring the lake to its original condition shall be recoverable from the person evicted as if it were an arrear of land revenue or in any other manner as may be prescribed.

(5) Any person aggrieved by an order of the Designated Officer or other officer authorized by the Authority under sub-section (1) may, within thirty days from the date of the order, appeal against such order to such authority and in such manner as may be prescribed and the order passed under sub-section (1) shall, subject to the decision in such appeal be final.

(6) The Deputy Commissioner and the Superintendent of Police of the district shall render help and assistance as may be required by the Authority to remove the encroachment from any lake.

CHAPTER 4:

PENALTIES AND PROCEDURES :

23. (24) Penalty for contravention of section 12 :

Whoever contravenes the provisions of section 12 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with a fine of not less than ten thousand rupees but which may extend to rupees twenty thousand.

24. (25) Penalty for causing obstruction to any officers:

Whoever –

(1) obstructs any Designated Officer, Authorized Officer, Empowered Officer or any person acting under the orders or directions of the Authority or the Authorized or Designated Officer from exercising his powers, discharging his functions or performing his duties under this Act or the rules, or regulations made thereunder; or

(2) damages any works or property of the Authority; or

(3) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the directions of the Authority or any authorized officer or designated officer :-

shall be punishable with imprisonment for a term which may extend to one year and with **a** fine which may extend to ten thousand rupees.

25.(26) Penalty for failure to report unlawful occupation of lake:

Being an officer or servant of the Authority or the Government or any local or other authority entrusted with the responsibility of reporting of unlawful occupation or use of lake or maintenance and protection of lake, fails to report or to take action to remove such unlawful occupation or to maintain or protect lake shall be punishable with imprisonment for a term which may extend one year and with a fine of rupees ten thousand.

26. (27) Punishment for wrongful seizure:

Any officer, who vexatiously and unnecessarily seizes any property on the pretence of seizing property liable to forfeiture under this Act shall, on conviction, be punishable with imprisonment, which may extend to one year and with **a** fine, which may extend to five thousand rupees.

27. (28) Penalty for contravention of certain provisions of the Act:

Whoever contravenes any other provisions of this Act or any rules or regulations made there under or fails to comply with any order or direction given under this Act, for which no penalty has been specifically

provided, shall be punishable with imprisonment which may extend to one year and with a fine which may extend to five thousand rupees.

28. (29) Enhanced penalty after previous conviction under section 23:

If any person, who has been convicted of any offence under section 23 is again found guilty of an offence involving a contravention of the same provision, shall on the second and on every subsequent conviction be punishable with imprisonment for a term which shall not be less than five years and with a fine of rupees one lakh.

29. (30) Abetment of offence:

Whoever abets any offence punishable by or under this Act or attempts to commit any such offence shall be punishable with a penalty provided by or under this Act for committing such offence.

30.(31) Offences by Companies/ residents association:

(1) Where an offence under this Act has been committed by a company/residents association, every person who, at the time the offence was committed was in charge of, and was responsible to, the conduct of the business of the Company/ residents association, 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 provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation: For the purposes of this section –

(a) "Company" means anybody corporate and includes a firm or other association of individuals;

(b) "Director" in relation to a firm means a partner in the firm, in relation to the association, the Secretary or the President of the association as the case may be;

31.(32) Offences by Government department, etc:

Where an offence under this Act has been committed by any department of the Government or any local or other authority, the head of the department of the Government, or as the case may be, the Chief Executive Officer (by whatever name called) who is in charge of such

local or other authority 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 section render such head of the department or as the case may be, the Chief Executive Officer liable to any punishment if he proves that the offence was committed without his knowledge or that he **had** exercised due diligence to prevent the commission of such offence.

32. (33) Arrest without warrant:

(1) Any police officer or Designated Officer or Empowered Officer may without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been committed in any offence under this Act punishable with imprisonment for one year or upwards if such person refuses to give his name and residence address or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Any person arrested under this section shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction in the case within a period of twenty four hours of such arrest excluding the time necessary for journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

33. (34) Power to release on bond a person arrested:

Any Police Officer or Designated Officer who has arrested any person under section 32 may release such person on his executing a bond with proper surety to appear, if and when so required, before the Magistrate having jurisdiction in the case or before the officer in charge of the nearest Police Station.

34. (35) Cognizance of offences:

The offences under this Act shall be cognizable.

CHAPTER 5:

| FUND, ACCOUNTS AND AUDIT OF THE AUTHORITY:

35. (36) Fund of the Authority:

(1) The Authority shall have its own fund and the amount which may from time to time, be paid to it by the Government and all other

receipts (by way of gifts, grant, penalties, fees, charges or otherwise) shall be carried to the fund of the Authority and all the payments for the Authority made there from.

(2) The Authority may spend such sum as it deems fit for performing its duties and discharging its functions under this Act. Such sum shall be treated as expenditure payable out of the fund of the Authority.

36. (37) Accounts and Audit:

(1) The Authority shall maintain proper accounts and other records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

(2) The accounts of the Authority shall be audited by an auditor appointed by the Authority.

(3) The said auditor shall have the right to demand production of books, accounts, connected vouchers and other documents and papers and to inspect any offices of the Authority.

(4) The Authority shall send a copy of the report of the auditor together with an audited copy to the Government within nine months from the end of each financial year.

(5) The Government shall, as soon as may be after the receipt of the audit report under sub-section (4) cause the same to be laid before both the Houses of the State Legislature.

37. (38) Annual report:

The Authority shall during each financial year prepare in such form as may be prescribed the annual report giving full accounts of its activities under this Act during the previous financial year and copies thereof shall be sent to the Government within four months from the last date of the previous financial year and the Government shall cause such report to be laid before both the Houses of the State Legislature within a period of nine months from the last date of previous financial year.

38. (39) Budget:

The Authority shall during each financial year prepare in such form and at such time as may be prescribed, a budget in respect of financial year next ensuing showing the estimated receipt and expenditure, and copy thereof shall be forwarded to the Government.

39. (40) Borrowing power of Authority:

The Authority may, with the consent of the Government, or in accordance with the terms of any general or special authority given to it by the Government, borrow money from any source, by way of loans or

issue of bonds, debentures or such other instruments as it may deem fit for the discharge of all or any of its function under this Act.

40. (41) Mode of making contract:

The Chief Executive Officer shall execute contracts and agreements on behalf of the Authority in respect of matters which he is empowered to carry out under the provisions of this Act. He may execute such contracts or agreements on behalf of the Authority up to such amount as may be specified by the Government from time to time. In all other cases he shall execute a contract or agreement only with the sanction of the Authority.

CHAPTER 6:

MISCELLANEOUS

41. (42) Officers of Government, Local authorities, etc, to assist:

All officers of the Government, any local or other authority shall render such help and assistance and furnish such information to the Authority as it may require for the discharge of its functions, and shall make available to the Authority or any other officer authorised in this behalf for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

42.(43) Bar of jurisdiction:

Whenever any instrument, implement, machinery, device, tool, boat, vehicle or any other-property is seized under section 14, the Authorized officer under Section 16 or the Chief Executive Officer under Section 18 or the Sessions Judge hearing appeal under Section 19 shall have powers to exercise in accordance with the Code of Criminal Procedure , 1973 (Central Act 2 of 1974) or in any other law for the time being in force. ~~any~~ Any other officer, Court, Tribunal or Authority shall **not** have jurisdiction to make **any** order with regard to the custody, possession, delivery, disposal or distribution of such property.

43. (44) Officers to be public servants:

The Chairperson, members, officers and other employees of the Authority and every other officer exercising any of the powers conferred by this Act or the rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

44. (45) Protection of action taken in good faith:

No suit, prosecution or any other legal proceedings shall lie against the Authority or the Chair person or the member of the Authority or any officer or employee of the Authority or any person appointed or authorized by the Authority under this Act, in respect of anything done or omitted to be done in good faith under this Act or the rules or regulations made thereunder.

45. (46) Suits or prosecution in respect of acts done under colour of duty:

(1) In any case of alleged offence by Designated Officer, Empowered Officer or any other officer or employee of the Authority or of a wrong alleged to have been done by such Designated Officer, Empowered Officer or ~~their~~ **any other** officer or employee **of the Authority** by any act done under colour **of discharge of duty** or in excess of such duty or authority under this Act, or wherein it shall appear to the Court that the offence, if committed or done was of the aforesaid character, the prosecution or suit shall not be entertained against them except with the previous sanction of the Government.

(2) In the case of an intended suit on account of such wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer at least one month's notice of the intended suit with sufficient description of the wrong complained of failing which such suit shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state whether any, and if so what tender of amend has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed with a declaration by the plaintiff of the time and manner of service thereof.

46. (47) Delegation of powers:

The Authority may, ~~by notification~~ **by order in writing** delegate to any officer or authority subordinate to it, any of the powers conferred on it ~~or any officer subordinate to it~~ under this Act to be exercised by such officer or authority subject to such restrictions and conditions, *if any*, as may be specified in the said ~~notification~~ **order**.

47. (48) Effect of other laws:

(1) Subject to the provisions of sub-section (2) the provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission, which also constitutes an offence under this Act, or from being liable under such other law to any higher punishment or penalty other than that provided under this Act or the rules made there under:

Provided that no person shall be punished twice for the same offence.

48. (49) Removal of difficulty: Non-obstante clause

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order not inconsistent with the provisions of this Act, remove difficulties.

49.(50) Notice of suit against the Authority etc:

(1) No suit or other proceedings shall be commenced against the Authority, Chair Person or any member of the Authority for anything done or purporting to have been done in pursuance of this Act or the rules or regulation made there under without giving one month's notice in writing of the intended suit or other proceedings and of the cause thereof nor after six months from the accrual of the cause of such suit or other proceedings nor after tender of sufficient amends.

(2) A suit to obtain an urgent or immediate relief against the Authority Chair Person or any member of the Authority in respect of any act done or purporting to be done by the Authority, Chair Person or such member in its or as the case may be, his official capacity may be instituted with the leave of the Court, without serving any notice as required by sub-section (1) but the Court shall not grant relief in the suit whether interim or otherwise except after giving to the Authority, Chair Person, member, as the case may be, a reasonable opportunity of showing cause in respect of relief prayed for in the suit.

50. (51) Power to make rules:

(1) The Government may, by notification after previous publication make rules to carry out any or all the purposes of this Act.

(2) Every rule made under this Act shall be laid down as soon as may be before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session, in which it is so laid or the session immediately following both the Houses agree in making any modification in the rule or both the Houses agree that the rule shall not be made, the rule shall thereafter have effect 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.

51.(52) Power to make regulations:

The Authority may, subject to the provisions of this Act and the rules made there under and with the previous sanctions of the Government by notification after previous publication may make regulations to carry out the purposes of this Act in so far as it relates to its functions, powers and duties.

