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The Bobbili and Seethanagaram (Acquisition and Transfer of Sugar Undertakings) Act, 1986

Act 30 of 1986

Keyword(s):

Corporation, Occupier, Interested, Pre-Take Over Management Period, Sugar Undertakings

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THE BOBBILI AND SEETHANAGARAM (ACQUISITION AND TRANSFER OF SUGAR UNDERTAKINGS) ACT, 1986.

ACT No. 30 OF 1986.*

[26th August, 1986]

An Act to provide for the acquisition and transfer of Sugar undertakings at Bobbili and Seethanagaram in the State of Andhra Pradesh with a view to securing the proper management of the said undertakings so as to subserve the interests of, the general public by ensuring the continued manufacture, production and distribution of Sugar, which is essential to the needs of the economy of the State and for matters connected therewith or incidental thereto.

Whereas Messes, Sri Rama Sugars and Industries Limited had been engaging in the manufacture and production of sugar at Bobbili and Seethanagaram, which is an article mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951;

And whereas the management of the sugar undertakings of Messers, Sri Rama Sugars and Industries Limited at Bobbili and Seethanagaram, was taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951 and the Nizam Sugar Factory Limited, Hyderabad which is a Government Company has been appointed, as the Authorised person in respect of the said sugar undertakings ;

And whereas it is necessary to acquire the said sugar undertakings of Messers, Sri Rama Sugars and Industries Limited at Bobbili and Seethanagaram and the distillery unit of Messrs, Sri Rama Sugars and Industries Limited at Bobbili to ensure that the interests of the general public are served by the continuance, by the said sugar undertakings of the Company, of the manufacture, production and distribution

*Received the assent of the President on the 23rd August, 1986. For Statement of Objects and Reasons, please see the *Andhra Pradesh Gazette*, Part IV-A, Extraordinary, dated the 18th July, 1986 at pages 33 & 34.

of the sugar which is essential to the needs of the economy of the State.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-seventh Year of the Republic of India as follows :—

CHAPTER-I

Preliminary.

short title
and commen-
cement.

1. (1) This Act may be called the Bobbili and Seethanagaram (Acquisition and Transfer of Sugar Undertakings) Act, 1986.

(2) It shall be deemed to have come into force on the 30th June, 1986.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date appointed by the Government under sub-section(2) of section 1 ;

(b) "Collector" means the Collector of Vizianagaram district and includes any officer authorised by the Government to exercise the powers and perform the functions of the Collector under this Act;

Central Act
1 of 1956.

(c) "Company" means Messersl. Sri Rama Sugars and Industries Limited, a Company within the meaning of the Companies Act, 1956, and having its registered office at Bobbili;

Central Act
1 of 1956

(d) "Corporation" means the Nizam Sugars factory Limited, a Government Company within the meaning of section 617 of the Companies Act, 1956;

(e) "Government" means the State Government;

(f) "notification" means a notification published in the *Andhra Pradesh Gazette* and the word 'notified' shall be construed accordingly;

(g) "occupier" in relation to the sugar undertakings, means the person who, immediately before the date of taking over of the management of the sugar undertakings by the Corporation had the ultimate control over the affairs of the sugar undertakings;

(h) "person interested" in relation to the sugar undertakings acquired under this Act means all persons claiming an interest in the amount payable on account of the acquisition of the sugar undertakings;

(i) "prescribed" means prescribed by rules made by the Government under this Act;

(j) "prescribed authority" means the prescribed authority appointed under section 12;

(k) "pre-take over management period" means—

(i) in respect of Bobbili Unit, the period prior to the 17th October, 1977; and

(ii) in respect of Scethanagaram Unit the period prior to the 6th January, 1979;

(l) "sugar undertakings" means the undertaking manufacturing sugar at Bobbili and Scethanagaram units and the distillery unit at Bobbili of Messers. Sri Rama Sugars and Industries Limited, in Vizianagaram district and in relation to the said undertakings includes :—

(i) all lands, including agricultural lands, sites and roads held or occupied by the undertakings together with buildings and cattle sheds and field well and pump sheds in the farms, for the purpose of cultivation of sugarcane, manufacture of sugar and rectified spirit and such other activity incidental thereto and includes lands and sites on which factory and non-factory buildings are constructed;—

(ii) all buildings, such as factory buildings, workshop buildings, bagasse, storage platform, stores, buildings, sugar godowns, office-buildings, staff quarters, lorry sheds, molasses tanks, gunny godowns, oil godowns, sulphur godowns, laboratory buildings, canteen buildings, sheds, motor garages, buildings, temporary sheds, lime godowns, guest house and other civil engineering works including any lease hold, interest therein and also the buildings under the occupation of Government Departments for locating their office ;

(iii) all plant and machinery including mills, boilers, evaporators,crystaliser, pans, clarifiers, vaccum filters, cane cutting machines, carrier happers, centrifugal machines, spray ponds, pump juice tanks, steam lines, water lines, workshop machinery including lines, water lines, workshop machinery including lathes, drilling machines, bending machines ,foundry equipments, weighbridges, laboratory equipments, irrigation equipment, sewing machines, air compressors, cleaning equipments, floor polishing machines, agricultural equipments, sack stiching machines, vaccum clearers, confectionery machinery, concrete mixers, and any other plant, machinery equipment owned by the undertakings ;

(iv) all furniture, fixtures, office appliances, including iron safes;

(v) tractors, motor cars, motor trailers, motor lorries, motor cycles, jeeps, scooters, mopeds, trolley lines, railway siding;

(vi) all electrical equipments, such as generating sets, steam turbines, handsaw machines, air conditioners, water coolers, refrigerators, motor car air conditioners, pumps;

(vii) other assets, including library, canteen equipment, tools, tube well equipments, telephone equipment, bagasse,building press, magnetic separators hydraulic crushers, all water works with filter points pump sheds, motors and pipe lines at Penta Village, all water works, bore wells, groynes at Seethanagaram or situated at any other place belonging to the said undertakings;

(viii) all land, buildings, plant and machinery, laboratory equipment, laboratory buildings, furniture, fittings and office appliances including iron safes, library, sealing machines, distillery equipment, overhead tanks, spent wash pits, bagasse storage sheds, fire extinguishers belonging to the distillery unit of the said undertakings including any other equipments pertaining to the distillery unit situated anywhere;

(ix) any dispensary, hospital or community or welfare centers, used for the benefit of the workmen and other persons employed in the undertakings;

- (x) all live stock, trees and gardens;
- (xi) all maps, plans, sections, drawings and designs;
- (xii) all tools, spare parts and stores;
- (xiii) all scrap and any other material available in the premises of the undertakings;
- (xiv) all sugarcane, sugar in the process of manufacture or production and stocks of sugar molasses, bagasse, press mud.
- (xv) all fire arms used by watch and ward, staff employed in the undertaking; and
- (xvi) all books of accounts, registers and other documents pertaining to the assets of the undertakings or any property herein before specified; but does not include cash in hand, cash at bank, advances towards any income or other taxes, investments and book debts or rights, liabilities and obligations respecting any other contracts entered into before the pre-takeover management period ;
- (m) "Tribunal" means the Tribunal constituted under section 14;
- (n) words and expressions used herein and not defined, but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act. Central Act 1 of 1956.

CHAPTER II

Acquisition and Transfer of Sugar Undertakings of the Company.

3. (1) On the appointed day, the sugar undertakings of the Company and the right, title and interest of the Company in relation to its sugar undertakings shall, by virtue of this Act stand transferred to, and vest in, the Government free from any debt, mortgage, charge or other encumbrance or lien, trust or similar obligation attaching to the sugar undertakings: Transfer and vesting in Corporation of the sugar undertakings of the Company.

Provided that any such debt, mortgage, charge or other encumbrance or lien, trust or similar obligation shall attach to the amount referred to in section 8, in accordance with the provisions of that section in substitution for the sugar undertakings:

Provided further that a debt, mortgage, charge or other encumbrance or lien, trust or similar obligation created after the sugar undertakings or any property or asset comprised therein had been attached, or a receiver appointed over it, in any proceedings for realisation of any tax or cess or other dues recoverable as arrears of revenue shall be void.

(2) Notwithstanding anything contained in sub-section (1), the Government may, subject to such terms and conditions as they may think fit to impose, direct by notification, that the sugar undertakings of the Company and the right, title and interest in relation to their respective undertakings which have vested in the Government under sub-section (1) together with the liabilities, if any for the post take over period shall, instead of continuing to vest in the Government, vest in the Corporation either from the date of notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(3) On and from the date of vesting in the corporation of the right, title and interest and the liability under sub-section (2), the Corporation shall be deemed to have become the owner of the sugar undertakings, and all the rights, titles, interests and liability of the Government in relation to the sugar undertakings shall on and from the appointed day, be deemed to have become the rights, titles, interests and liability of the Corporation.

Certain consequences of vesting.

4. (1) Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, on and from the appointed day—

(a) every appointment of receiver over any sugar undertaking by any court shall cease;

(b) every lease or other arrangement where, under any sugar undertakings or the management thereof has been transferred to any person shall cease to have effect,

(c) every attachment, injunction, decree or any other order of a court restricting or restraining the use of any sugar undertaking or prescribing a scheme of management in respect thereof how so ever described, shall cease to have effect.

(2) Any licence or other instrument granted to the sugar undertakings, which have vested in the Corporation under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and on and from the appointed day, the Corporation shall be deemed to be substituted in such licence or other instrument, as if such licence or other instrument had been granted to such Corporation and such Corporation shall hold it for the remainder of the period for which the sugar undertakings to which it was granted would have held it under the terms thereof.

5. (1) Every liability of the Company, other than the liabilities specified in sub-section (2), in respect of any period prior to the appointed day, and in relation to the sugar undertakings shall be the liability of the Company and shall be enforceable against it, and not against the Corporation notwithstanding that moneys were borrowed by the Company on the security of the sugar undertakings.

Company to be liable for certain prior liabilities.

(2) Any liability arising in respect of materials supplied to the sugar undertakings after the management of the sugar undertakings had been taken over by the Corporation shall, on and from the appointed day, be the liability of the Corporation and shall be discharged by that Corporation, as and when repayment for such supplies becomes due and payable.

(3) For the removal of doubts, it is hereby declared that :—

(a) save as other wise expressly provided in this Act, no liability of the Company in relation to

the sugar undertakings, in respect of any period prior to the appointed day, shall be enforceable against the Corporation ;

(b) no award, decree or order of any court tribunal or other authority in relation to the sugar undertakings, passed on or after the appointed day in respect of any matter, claim or dispute, not being a matter, claim or dispute in relation to any matter referred to in sub-section (2), which arose before that day, shall be enforceable against the Corporation ;

(c) no liability incurred by the Company before the appointed day for the contravention of any provision of law for the time being in force, shall be enforceable against the Corporation.

Duty to deliver Possession.

6. (1) On the vesting of sugar undertakings of the Company in the Corporation under section 3, every person in whose possession or custody or under whose control any property or asset, book of account, register or other document relating to the sugar undertakings may be, shall forthwith deliver the same to the Collector.

Explanation :- For the purpose of this section, any property or asset, book of account, register or other document, comprised in the Company, shall be deemed to be relating to the sugar undertakings to the extent the same is severable and pertaining to the sugar undertakings.

(2) The Collector may take all necessary steps for securing possession of any such property or asset, book of account, register or document, and in particular, may use or cause to be used such force as may be necessary.

(3) The Collector shall prepare an inventory of all properties, assets, books of account, registers and documents taken possession under this section, as far as practicable, in the presence of the occupier or his authorised representative.

(4) Delivery of possession to the Collector under this section shall amount to delivery of possession to the Corporation.

(5) Without prejudice to the provisions of the foregoing sub-sections, any person referred to in sub-section (1) shall be liable to account to the Corporation for any such property or asset, book of account, register or document which he has failed to deliver to the Collector.

(6) Any such property, or asset, book of account, register or other document, which has been already taken possession of by the Corporation shall be deemed to have been duly delivered under this section.

7. The Company shall, within six months from the appointed day or within such further time as the Corporation may allow in that behalf, furnish to the Corporation or to such officer as the Corporation may specify, complete particulars of all liabilities and obligations incurred on the security of the sugar undertaking and subsisting on the appointed day, and also of all agreements and other instruments pertaining to the sugar undertakings (including agreements, decrees, awards, standing orders and other instruments relating to leave, pension, gratuity, provident fund and other terms of service of any person employed in the sugar undertakings), in force immediately before the appointed day, and the Corporation shall afford to the Company all reasonable facilities for this purpose.

CHAPTER-III

Payment of amounts.

8. (1) The Government shall pay for the acquisition and transfer of the sugar undertakings specified in column (2) of the First Schedule, an amount specified in column (3) thereof, out of which fifty percent shall be paid in cash and for the remaining fifty percent bonds shall be issued on such terms and carry such rate of interest as may be prescribed and redeemable after five years and the same shall be paid to the persons entitled thereto in accordance with the decisions of the prescribed authority or the Tribunal as the case may be, under this Act.



(2) The prescribed authority shall give notice of every deposit made with it under this section to all persons known or believed to be interested in the sugar undertakings or to be entitled to act for persons interested in the manner prescribed.

(3) The deposit referred to in sub-section (1) shall be made not later than six months from the date on which possession of the properties and assets relating to the sugar undertakings has been delivered under section 6:

Provided that where in consequence of any act committed by any person interested (including any legal proceeding instituted by him) or of any other reason, the Corporation is deprived of or is interrupted in the possession of such properties and assets, the period of such deprivation or interruption shall be excluded while computing the said period of six months.

(4) Interest at the rate of six percent per annum shall accrue on the amount referred to in sub-section (1) and enure to the benefit of Company.

(5) If any doubt or difficulty arises in respect of the period referred to in the proviso to sub-section (3) or about the amount of interest referred to in sub-section (4), the same shall be determined by the prescribed authority, which may in accordance with its decision direct the Government to make such deposit or further deposit as may be necessary.

(6) (a) The Corporation shall be entitled to receive up to date prescribed in this behalf to the exclusion of all other persons, all moneys—

(i) due to the company, in relation to any of the sugar undertakings owned by it which have vested in the Corporation and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day;

(ii) being the proceeds of sale or disposal otherwise of stocks of sugar, molasses, sugarcane, sugar in process, bagasse or press mud comprised in the sugar undertakings notwithstanding any contract or agreement to the contrary:



(b) The moneys received by the corporation under this sub-section shall be utilised for meeting the liabilities arising out of transactions which took place during the post take over management period, and any surplus amount left out shall be deposited with prescribed authority.

(7) (a) The corporation may make a claim to the prescribed authority with regard to every payment made by the Corporation after the appointed day, for discharging any liabilities of the Company including the payment made under sub-section (4) of section 9 in respect of any of the sugar undertakings owned by it, in relation to any period prior to the appointed day and every such claim shall have priority in accordance with the priority attaching under this Act to the matter in relation to which such liability has been discharged by the Corporation.

(b) save as otherwise provided in this Act the liabilities of the Company in relation to any of the sugar undertakings owned by it, in respect of any transaction prior to the appointed day, which have not been discharged on or before the date prescribed under sub-section (6) shall be the liabilities of the Company.

9. (1) The Corporation may prefer to the prescribed authority any claim based on any loss sustained by the Corporation by reason of any property, asset, book of account, register or any other document relating to the sugar undertakings not having been delivered in accordance with the provisions of section 6.

Claims to be satisfied out of amounts deposited.

6. (2) Any cane-grower or canegrowers' Co-operative Society may prefer to the prescribed authority any claim in respect of price of Sugarcane supplied by him or by its members, as the case may be, to the Sugar undertakings at any time not earlier than three years of the pre-take over management period.

(3) Without prejudice to the provisions of sub-section (2) the Corporation may send to the prescribed authority a certificate containing particulars of any outstanding dues referred to in that sub-section.

(4) The Employees' Provident Fund Commissioner or Employees' State Insurance Corporation may

Central Act
XIX of 1952
Central Act
XXXIV of
1948.

send to the Corporation a certificate in respect of either the employers' contribution or the employees' contribution realised by the employer or any other dues recoverable from the employer under the Employees' Provident Fund Act, 1952, or the Employees, State Insurance Act, 1948, as the case may be, in respect of any person who was employed in connection with the sugar undertakings immediately before the appointed day, which the employer may have failed to pay in accordance with the provisions of the respective Acts. Thereupon the corporation shall pay all such dues, and make claim under clause (a) of sub-section (7) of section 8.

(5) Any person who was employed exclusively in connection with the Sugar undertaking immediately before the appointed day, whether he does or does not become an employee of the Corporation under section 18, or ceases to be in such employment or any trade union of which such person was a member, may prefer to the prescribed authority any claim relating to any salary, wages, retaining allowances, leave salary, bonus, pension, provident fund, gratuity or other payment due to him or the proportionate amount thereof, in respect of any service rendered by him in connection with the sugar undertakings at any time not earlier than three years of the pretake over management period.

(6) Without prejudice to the provisions of sub-section (5) the Corporation may send to the prescribed authority a certificate containing particulars of any outstanding dues referred to in that sub-section in so far as they relate to persons who were employed as aforesaid before the appointed day and who, on and from the appointed day, become employees of the Corporation under section 18.

Act V of
1908.

(7) A claim mentioned in sub-section (1), or sub-section (2), or sub-section (5) may be preferred whether or not a decree or award has been obtained on the basis thereof and it shall conform generally to the requirements of Orders VI and VII of the Code of Civil Procedure, 1908, as if it were a plaint.

(8) A certificate mentioned in sub-section (3) or sub-section (6) may be sent whether or not any recovery certificate or other process has been issued or

other legal proceedings have been taken before the appointed day in respect of dues referred to in that sub-section, and shall be conclusive evidence of the matters stated therein.

(9) Every other person having a claim against the Company with regard to any of the matters specified in the Second Schedule, pertaining to the sugar undertakings owned by it, shall prefer such claim before the prescribed authority and the prescribed authority shall give notice of every claim preferred to it or certificate received by it under this section to all persons known or believed to be interested in the Sugar Undertakings or to be entitled to act for persons interested in the manner prescribed.

10. The claims made under section 9 with regard to matters specified in the Second Schedule shall have ^{Priority of} priority in accordance with the following principles, ^{claim.} namely :—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III and so on ;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly ; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

11. (1) On receipt of the claims or certificate made under section 9, the prescribed authority shall arrange them in the order of priorities specified in the Second Schedule and examine the same in accordance with such order. If on examination of the claim of the certificates, the prescribed authority is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any category, he shall not be required to examine any claim in respect of such lower category.



(2) The prescribed authority shall hold such inquiry as it thinks fit, and adjudicate on the claims mentioned in this section and also on any dispute as to title to the amount deposited, in the manner prescribed.

(3) The claims mentioned in section 9 shall be preferred or certificates in respect thereof sent to the prescribed authority within six months from the appointed day :

Provided that if the prescribed authority is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of six months, it may entertain the claim within a further period of thirty days, but not thereafter.

(4) The claim admitted under this Act shall be satisfied from the amounts deposited by the Government with the prescribed authority, and on such satisfaction, the liability of the company or any person interested in respect of any claim relating to the sugar undertakings shall stand discharged.

(5) If the Government pay any amount to any person which according to the decision of the prescribed authority was not payable to him or exceeded the amount payable to him, the prescribed authority may make an order for the refund of such amount or, as the case may be, the excess amount, and such order shall have the force of a decree of a Civil Court.

(6) (a) The prescribed authority may disburse out of the amounts deposited with it in accordance with its decision or the decisions of the tribunal, as the case may be and may make such interim orders, respecting the withdrawals or investment of the whole or part of the amount, as it thinks just and expedient ;

(b) If out of the amounts deposited with the prescribed authority, in relation to the Sugar undertakings owned by the Company, there is a balance left after meeting the liabilities as specified in the Second Schedule, the prescribed authority shall disburse such balance to the Company ;

(c) Any amount paid to the prescribed authority which remains undisbursed or unclaimed on the date immediately preceding the date on which the



office of the prescribed authority is finally wound up shall be transferred by the prescribed authority, before its office is finally wound up, to the general revenue account of the Government, but a claim to any money so transferred may be preferred to the Government by the person, entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for the payment of the claim being treated as an order for the refund of revenue.

(7) (a) Where any objection relating to a claim based on a debt, mortgage, charge or other encumbrance or lien, trust or similar obligation is preferred to the prescribed authority, the Government or the Corporation or any other creditor or other persons interested may contest such claim, *inter alia* on any of the following grounds, namely :—

(i) that the transaction of debt, mortgage charge or other encumbrance or lien, trust or other obligation on which the claim is based, was entered into:—

(A) to defeat or delay any dues of the Government or any claim referred to in section 9 or the claim of any other creditor; or

(B) to give to the claimant, or to a person through whom he claims, a preference over the dues of the Government or of persons referred to in sub-sections (2), (4) and (5) of section 9, such transaction having been entered into within a period of one year immediately before the appointed day; or

(ii) that the transaction was not entered into in good faith and that its terms were not reasonable ;

(b) the prescribed authority after taking into consideration all the circumstances of any such transaction and of the sugar undertakings, may, unless the claimant is proved to the satisfaction of the prescribed authority to be a transferee in good faith and for consideration, make an order cancelling or varying the transaction on such terms as it may think fit to impose, and the transaction shall, thereupon cease to have effect or, as the case may be, shall have effect subject to such variation.

(8) Where any claim based on a liability specified in Category IV or category VI is preferred to the prescribed authority, it shall be lawful for the prescribed authority,—

(i) to adjudicate on the claim, having regard to the fact that the company has engaged in transactions other than the Sugar undertakings and to determine only such portion of the amounts advanced by the bank or public financial institution, as is primarily relatable to the sugar undertakings; and

(ii) to direct the bank or public financial institution to satisfy its claim or any portion thereof from the company, otherwise than in accordance with the provisions of this Act.

CHAPTER IV

Prescribed Authorities and Tribunals.

Prescribed
Authority.

12. The Government shall, by notification, appoint an officer, not below the rank of a District Judge, as the prescribed authority for the purpose of exercising the powers and performing the functions conferred on or entrusted to it by or under this Act.

Appeal.

13 Any person (including the Government) aggrieved by a decision of the prescribed authority may in such form, within such time and in such manner together with such fees, as may be prescribed prefer an appeal against such decision to the Tribunal, and the Tribunal may thereupon make such orders as it thinks fit.

Tribunal.

14. (1) The Government may, by notification, constitute a Tribunal to perform the functions assigned to it by or under this Act.

(2) The Tribunal shall consist of a single member, appointed by the Government, from amongst persons who are or have been judges of a High Court.

Powers and
procedure.

Central Act
V of 1908.

15. (1) The prescribed authority or the Tribunal shall have the powers of a civil court, while trying a suit or executing a decree under the Code of Civil Procedure, 1908, in respect of the following matters—

(a) summoning and enforcing the attendance of any person and examining him on oath;

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(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) issuing commission for the examination of any witness or document or for the inspection or evaluation of any property or asset comprised in the Scheduled undertaking;

(e) executing any order made by it;

(f) such other matters, if any, as may be prescribed.

(2) The prescribed authority or the Tribunal shall have power to regulate its own procedure, and review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein.

(3) If for any reason a vacancy (other than a temporary absence) occurs in the Office of the prescribed authority or of the member of the Tribunal, the Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceedings may be continued before the prescribed authority or the Tribunal, as the case may be, from the stage at which the vacancy is filled.

(4) The prescribed authority or the Tribunal shall be deemed to be a Civil Court within the meaning of section 195 of the Code of Criminal Procedure, 1973, and any proceedings before the prescribed authority or the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code.

Central Act
2 of 1973.

Central Act
XLV of 1860.

16. Every decision of the prescribed authority subject to appeal, if any, to the Tribunal, and every decision of the Tribunal, under this Act shall be final and shall not be called in question in any Court of Law.

Bar of Jurisdiction.



CHAPTER-V

THE MANAGEMENT AND TRANSFER OF EMPLOYEES OF THE SUGAR UNDERTAKINGS.

Management of the Sugar undertaking.

17. (1) The general superintendence, direction, control and management of the affairs and business of the Sugar undertakings, the right, title and interest in relation to which have vested in the Corporation under section 3, shall vest in the Corporation and thereupon the Corporation shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to the sugar undertakings.

(2) The Government may issue such directions as they may deem desirable in the circumstances of the case to the Corporation, and the Corporation may also if it is considered necessary so to do, apply to the Government at any time for instructions as to the manner in which the management of the Sugar undertakings shall be conducted or in relation to any other matter arising in the course of such management.

Transfer of employees.

Central Act 1 of 1956.

18. (1) Save as otherwise provided in this section, every person (other than a director of a Company in whom the ownership, management or control of the sugar undertakings was vested immediately before the appointed day or of a subsidiary company of such company, or a relative as defined in section 6 of the Companies Act, 1956, of such director or of a proprietor or partner or lessee of the undertakings), who was employed exclusively in connection with the Sugar undertakings immediately before the appointed day shall on and from the appointed day, become an employee of the Corporation and shall hold his office or service therein by the same tenure, at the same remuneration, and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters, as he would have held the same on the appointed day if the sugar undertakings had not been transferred to and vested in the Corporation, and shall continue to do so until his employment in the Corporation is terminated or until his remuneration or other terms and conditions



of service are revised or altered by the Corporation under or in pursuance of any law or in accordance with any provision which for the time being governs his service :

Provided that no appointment made or promotion, increments in salary, pension, allowance or any other benefit, granted to any person before the date of taking over the management of the Sugar undertakings by the Corporation which in the opinion of the Corporation would not ordinarily have been made admissible under the terms and conditions of service in force prior to the said date, shall have effect or be payable or claimable from the Corporation or from any provident, pension or other fund or from any authority administering the fund, unless the Government have, by general or special order, confirmed the appointment promotion or increment or have directed the continued grant of the pension, allowance or other benefit, as the case may be.

(2) Notwithstanding anything in sub-section (1), but subject to any express agreement to the contrary, any person referred to therein other than a workman as defined in the Industrial Disputes Act, 1947, who becomes an employee of the Corporation shall be liable to be transferred from the Sugar undertakings in which he was employed immediately before the appointed day to any other undertaking or establishment belonging to the Corporation at the same remuneration and on the same terms and conditions as govern him immediately before transfer.

Central Act
XIV of 1947.

(3) If any question arises as to whether any person was exclusively employed in connection with the sugar undertakings immediately before the appointed day, it shall be decided by the prescribed authority.

(4) (a) For the persons who, immediately before the appointed day, were trustees of any pension, provident, gratuity or other like fund constituted for the employees referred to in sub-section (1), other than trustees nominated by or under any law, there shall be substituted as trustees such person as the Government may, by general or special order, specify.

(b) Where the sugar undertakings have established a provident fund, superannuation, welfare or other fund for the benefit of the persons, employed in the Sugar undertakings the moneys relatable to the employees whose service have been transferred by or under this section to the Corporation shall, out of the moneys standing on the appointed day to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to and vest in the Corporation.

(c) The moneys which stand transferred under clause (b) to the Corporation shall be dealt with by the Corporation in such manner as may be prescribed.

Central Act
XIV of 1947. (5) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of services of any employee to the Corporation under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law, and no such claim shall be entertained by any Court, Tribunal or authority.

Central Act
XIV of 1947. (6) Where the Government are satisfied that for purposes of securing uniformity, in the scales of remuneration and other terms and conditions of service applicable to persons employed in connection with the Sugar undertakings vested in the Corporation the interest of the Corporation or for the development of the Sugar Industry in the State, a reduction in remuneration payable or a revision of the other terms and conditions of service applicable to employees or any class of them is called for, the Government, notwithstanding anything in this section or in the Industrial Disputes Act, 1947, or any other law for the time being in force or any award, settlement, or agreement for the time being in force, may at any time within a period of three years from the appointed day, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as they think fit, and if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months remuneration unless the contract of service with such employee provide for a shorter notice of termination.

Explanation-I :—The compensation payable to an employee under this sub-section shall be in addition to, and shall not effect, any pension, gratuity provident fund or any other benefits to which the employee may be entitled under the contract of service.

Explanation-II :—The expression “Contract of Service” means the contract as subsisting between the employee and the Corporation immediately before termination.

(7) For the purpose of adjudicating upon the fairness or reasonableness of the provisions of any standing orders under the Industrial Employment (Standing Orders) Act, 1946, or the fairness and reasonableness of wages and other allowances, leave with wages, holidays, bonus, profit sharing, provident fund, gratuity, customary concessions and privileges, rationalisation, retrenchment or any other matter under the relevant law relating thereto, the accounts, profits, losses and other circumstances of or pertaining to the undertaking belonging to the Corporation in which a workman or other employee is for the time being employed shall alone be considered and not the accounts, profits, losses and other circumstances of the sugar undertakings vested by virtue of this Act in corporation or any other undertaking otherwise acquired by it.

Central Act
XX of 1946.

(8) Where at any time after the appointed day, the Corporation promotes any subsidiary company and transfers one or more sugar undertakings which by virtue of this Act have vested in the Corporation to such Company, the services of such of the Employees of the Corporation as the Corporation declares to have been employed in connection with that or those undertakings (excepting such of them as elect otherwise within such time as may be prescribed) shall stand transferred to that subsidiary company and every such employee shall become the employee of such company at the same remuneration, upon the same terms as to pension, gratuity and other matters as would have been admissible to him if the undertaking had not been transferred to the subsidiary company, and shall continue to do so until his remuneration or other terms and conditions of service are revised or altered by the Company under or in pursuance of any law or in according with any provision which for the time

being governs his service, and the provision of subsection (5) shall, *mutatis mutandis* apply in relation to such transfer of service.

Access for occupier or person interested to books of account and other documents.

19. Where, at any time during a period of one year from the appointed day, the company or any person interested in the sugar undertakings requires, for purposes of defending any claims referred to in sections 8 and 9 before the prescribed authority or for filling any return before any public officer or authority or any other like purpose, any information contained in any book of account, register or other document which by virtue of this Act has vested in the Corporation, he may apply to the Corporation for inspection of such book, register or other document, and thereupon the Corporation shall afford him all facilities for the purpose and in particular, allow him to inspect any such book, register or document or to take extracts or copies therefrom.

CHAPTER-VI

Miscellaneous

Penalties.

20. (1) Any person who,—

(a) having in his possession, custody or control any property, asset, book of account, register or other document forming part of or relating to the sugar undertakings vested in the Corporation under section 3, withholds it from the Collector in contravention of the provisions of section 6; or

(b) wrongfully obtains possession of, or retains, any such property, asset, book of account, register or other document;

(c) conceals, removes or destroys any such property or mutilates or defaces any book of account, register or other document with intent to evade the provisions of section 6;

(d) prefers any claim which he knows or has reason to believe to be false or grossly inaccurate;

(e) wilfully withholds or fails to furnish any particulars as required by section 7, or

(f) furnishes, in compliance with the requirements of section 7, particulars which are false and which he either knows or believes to be false or does not believe to be true;

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) Any court trying any offence under clause (a) or clause (b) of sub-section (1) may, at the time of convicting the accused person, order him to deliver up within a time to be fixed by it any property, asset, book of account, register or other document wrongfully obtained or wilfully withheld.

(3) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or of an officer authorised by them in that behalf.

21. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by Companies.

Provided that nothing contained in this subsection shall render any such person liable to any punishment, 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.

(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 that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, shall also be deemed to 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 any 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.

Protection
of action
taken in
good faith.

22. (1) No suit, prosecution or other legal proceeding shall lie against, the Government, the Corporation, the prescribed authority or the Tribunal, or any officer or servant of the Government or the corporation, or any other person authorised by the Government, the corporation, the prescribed authority or the Tribunal to perform any function under this Act for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government or any of its officers or other employees or the corporation or the prescribed authority or the Tribunal or any officer or other person authorised by the Government, the corporation, the prescribed authority or the Tribunal, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereon.

Power to
make rules.

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

(2) Every rule made under this section shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in the session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

24. (1) Where any liability of the Company arising out of any item specified in any category in parts I and II or category VI in Part III of the Second Schedule is not discharged fully by the prescribed authority out of the amounts deposited with it under this Act the prescribed authority shall intimate in writing to the Government the extent of the liability which remains undischarged and that liability shall be assumed by the Government. Assumption of liability.

(2) The Government may, by order, direct the Corporation to take over the liability assumed by the Government under sub-section (1), and on receipt of such direction, it shall be the duty of the Corporation to discharge such liability.

25. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act or in any decree or order of any court, tribunal or other authority. Act to have overriding effect.

26. Every contract entered into by the Company in relation to Sugar undertaking which have vested in the Corporation under section 3, for any service, sale or supply and in force immediately before the appointed day, shall on and from the expiry of a period of six months from the appointed day, cease to have effect, unless such contract is, before the expiry of that period, ratified in writing by the Corporation and in satisfying such contract, the Corporation may make such alteration or modification therein as it may think fit. Contracts to cease to have effect unless ratified by the corporation.

Provided that the Corporation shall not omit to ratify a contract and shall not make any alteration or modification in a contract—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interest of the Corporation; and

(b) except after giving the parties to the contract an opportunity of being heard and except after