

THE ORISSA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION ACT, 1980

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THE ORISSA INDUSTRIAL INFRASTRUCTURE DEVELOPMENT CORPORATION ACT, 1980

(Orissa Act 1 of 1980)

[Received the assent of the President on the 5th January, 1991]

An Act to provide for the establishment of a Corporation for the development of industrial infrastructure in the State of Orissa

Whereas it is expedient to make special provision for securing the orderly establishment of industries in industrial areas and industrial estates in the State of Orissa and to assist generally in the organisation thereof, and for that purpose to establish an Industrial Infrastructure Development Corporation, and for purposes connected with the matters aforesaid;

It is hereby enacted by the Legislature of the State of Orissa in the Thirty-first year of the Republic of India, as follows :

CHAPTER I

Preliminary

1. Short title, extent and commencement. - (1) This Act may be called the Orissa Industrial Infrastructure Development Corporation Act, 1980.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force at once.

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

(a) "*amenity*" includes road, railway siding, air strip, warehousing, supply of water or electricity, street lighting, drainage, sewerage, conservancy and such other convenience as the State Government may, by notification, specify to be an amenity for the purpose of this Act;

(b) "*Board*" means the Board of Directors of the Corporation;

(c) "*building*" means any structure or erection, or part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(d) "*Collector*" means the Collector of a district, and includes any officer specially empowered by the State Government to perform the functions of a Collector under this Act;

(e) "*Corporation*" means the Orissa Industrial Infrastructure Development Corporation established under S.5;

(f) "*development*" with its grammatical variations means the carrying out of building, engineering, quarrying or other operations in, on, over or under land or the making of any material change in any building or land, and includes

- re-development, but does not include mining operations; and "to develop" shall be construed accordingly;
- (g) "*engineering operations*" include the formation or laying out of means of access to a road, rail or waterway or the laying out of means of water-supply, power supply and communication system;
 - (h) "*industrial area*" means any area declared to be an industrial area by the State Government by notification, which is to be developed and where industries, industrial housing and related services are to be accommodated;
 - (i) "*industrial estate*" means any site selected by the State Government where the Corporation builds factories and other buildings, services and amenities and makes them available for any industry or class of industries;
 - (j) "*means of access*" includes a road or any means of access, whether private or public, for vehicles or for pedestrians or for rail or for water, power or communication systems;
 - (k) "*premises*" means any land or building or part of a building and includes -
 - (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; and
 - (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;
 - (l) "*prescribed*" means prescribed by rules made under this Act;
 - (m) the expression "tend" and the expression "*person interested*" shall have the meanings respectively assigned to them under S.3 of the Land Acquisition Act, 1894 (1 of 1894).

CHAPTER II

Establishment of the Corporation

3. Establishment and incorporation. - (1) For the purpose of securing and assisting in the rapid and orderly establishment and organisation of industries, trade and commerce in industrial areas and industrial estates in the State of Orissa, there shall be established by the State Government, by notification, a Corporation by the name of the Orissa Industrial Infrastructure Development Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract, and do all things necessary for the purposes of this Act.

4. Constitution of Board of Directors. - (1) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of Directors which, with the assistance of an Executive Committee and a Managing Director, may exercise all the powers and discharge all the functions which may be exercised or discharged by the Corporation.

- (2) The Board of Directors shall consist of fifteen Directors, namely:
- (i) Secretary to Government in the Industries Department;
 - (ii) Secretary to Government in the Finance Department;
 - (iii) Secretary to Government in the Revenue Department;
 - (iv) Director of Industries, Orissa;
 - (v) Chairman, Orissa State Electricity Board;
 - (vi) Managing Director, Industrial Development Corporation of Orissa Limited;
 - (vii) Managing Director, Industrial Promotion and Investment Corporation of Orissa Limited;
 - (viii) Managing Director, Orissa State Financial Corporation;
 - (ix) Managing Director, Orissa Small Industries Corporation Limited;
 - (x) Chief Engineer, Public Health Department;
 - (xi) Managing Director of the Corporation;
 - (xii) Four Directors nominated by the State Government from amongst persons appearing to it to be qualified as having had experience of, and having shown capacity in, industry or trade or finance, or who, in the opinion of the State Government, are capable of representing the interest of persons engaged or employed therein.

(3) The State Government shall appoint one of the Directors to be the Chairman of the Board.

5. Disqualification for Directorship. - A person shall be disqualified for being nominated as a Director of the Board, if he -

- (a) is an employee of the Corporation, not being the Managing Director; or
- (b) is of unsound mind, and stands so declared by a competent Court: or
- (c) is an undischarged insolvent; or
- (d) has a subsisting contract with the Corporation.

6. Term of office and conditions of service of Directors. - (1) The Chairman and the Directors nominated under Cl.(xii) of sub-S. (2) of S.4 shall hold office at the pleasure of the Governor.

(2) Subject to the provisions of sub-S. (1), the term of office of the said Directors shall be for a period of three years from the date of their nomination and shall include any further period which may elapse between the expiration of the said period of three years and the date of nomination of their successors.

(3) The nominated Directors shall be entitled to draw such fees and allowances as may be prescribed.

(4) Any person nominated as a Director on one or more occasions shall, unless disqualified, be eligible for renomination.

(5) Where a person is nominated to be or becomes a Director by virtue of holding any office he shall, notwithstanding anything contained in this Act, cease to be a Director as soon as he ceases to hold that office.

7. Meetings of the Board. - (1) The Board shall meet at such times and places, and shall, subject to the provisions of sub-S. (2), observe such rules of procedure in regard to the transaction of its business as may be provided by regulations made under this Act.

(2) A Director, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into, by or on behalf of the Corporation, shall at the earliest possible opportunity disclose the nature of his interest to the Board, and shall not present at any meeting of the Board when any such contract, loan arrangement or proposal is discussed, unless his presence is required by the other Directors for the purpose of eliciting information, but no Director so required to be present shall vote on any such contract, loan, arrangement or proposal.

8. Cessation of Directorship. - If a Director -

- (a) becomes subject to any of the disqualifications mentioned in S.5; or
- (b) tenders his resignation in writing to, and such resignation is accepted by the State Government; or
- (c) is absent without the Board's permission from three consecutive meetings of the Board, or from all meetings of the Board for three consecutive months; or
- (d) is convicted of an offence involving moral turpitude; he shall cease to be a member of the Board.

9. Vacancies how to be filled. - Any casual vacancy in the Board shall be filled as early as practicable, in like manner as if the appointment were being made originally :

Provided that during any such vacancy the continuing members may act as if no vacancy had occurred.

10. Temporary absence of Chairman. - If the Chairman of the Board is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted leave of absence by the State Government or is otherwise unable to attend to his duties in circumstances not involving the cessation of his Directorship, the State Government may appoint the Managing Director or any other Director to act as the Chairman and carry out his duties and functions by or under this Act until the Chairman resumes his duties.

11. Proceeding presumed to be good and valid. - No disqualification of. or defect in the appointment of any person acting as the Chairman or a Director of the Board, shall vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act.

12. Officers and servants of the Corporation. - (1) The State Government shall appoint a Managing Director who shall be the Chief Executive Officer of the Corporation.

(2) The Board may appoint such other officers and servants, subordinate to the Managing Director, as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants and their scales of pay shall -

- (a) as regards the Managing Director, be such as may be prescribed; and
- (b) as regards the other officers and servants, be such as may be determined by regulations made under this Act.

(4) If the Managing Director of the Corporation is temporarily absent or rendered incapable of performing his duties for any reason whatsoever, not involving the vacation of his office, the State Government may, after consultation with the Board, appoint another person to act in his place during his absence. Such person shall vacate office on the date the Managing Director resumes his duties.

13. Corporation to absorb certain staff and to assume obligations of State Government in respect of matters to which this Act applies. - (1) The Corporation shall take over and employ such of the existing staff serving for the purposes of the Industrial Promotion and Investment Corporation of Orissa Limited and the Orissa Small Industries Corporation Limited as the State Government may direct, and every person so taken over and employed shall be subject to the provisions of this Act and the rules and regulations made thereunder;

Provided that the conditions of service of the members of the staff who are taken over by the Corporation shall in no way be less advantageous than those which were applicable to them immediately prior to their absorption.

(2) All obligations incurred, all contracts entered into and all matters and things engaged to be done. before the first establishment of the Corporation, by, with or for the State Government or the Corporations aforesaid for any of the purposes of this Act, in respect of any schemes for the development of industrial estates or industrial areas entrusted to the Corporation, shall be deemed to have been incurred, entered into or engaged to be done, by, with or for the Corporation; and accordingly all suits or other legal proceedings instituted or which might have been instituted by or against the State Government or the Corporations aforesaid, as the case may be, may be continued or instituted by or against the Corporation.

(3) All expenditure which the State Government or the Corporations aforesaid may have incurred before the date of the coming into force of this Act in connection with any of the purposes of this Act shall be deemed to be a grant to the Corporation under S. 21 on that date, and all assets acquired by such expenditure shall vest in the Corporation.

CHAPTER III

Functions and powers of the Corporation

14. Functions. - The functions of the Corporation shall be -

- (i) generally to promote and assist in the rapid and orderly establishment, growth and development of industries, trade and commerce in the State; and
- (ii) in particular, and without prejudice to the generality of Cl. (i) to-

- (a) establish and manage industrial estates at places notified by the State Government;
- (b) develop industrial areas notified by the State Government for the purpose and make them available for undertakings to establish themselves;
- (c) undertake schemes or works, either jointly with other corporate bodies or institutions, or with Government or local authorities, or on an agency basis, in furtherance of the purposes for which the Corporation is established and all matters connected therewith;
- (d) provide or cause to be provided amenities and common facilities in industrial estates and industrial areas and construct and maintain or cause to be maintained works and buildings thereof;
- (e) make available buildings on hire or sale to industrialists or persons intending to start industrial undertakings;
- (f) construct buildings for the housing of the employees of such industries and employees of the Corporation.

15. General powers of the Corporation. - Subject to the provisions of this Act, the Corporation shall have power :

- (a) to acquire and hold such property, both movable and immovable, as the Corporation may deem necessary for the performance of any of its activities, and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation;
- (b) to purchase by agreement or to take on lease or under any form of tenancy any land to erect such buildings and to execute such other works as may be necessary for the purpose of carrying out its duties and functions;
- (c) to allot plots, factory sheds or buildings or part of buildings, including residential tenements, to suitable persons in the industrial estates established or developed by the Corporation;
- (d) to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of the allotment;
- (e) to constitute advisory committees to advise the Corporation;
- (f) to engage suitable consultants or persons having special knowledge or skill to assist the Corporation in the performance of its functions;
- (g) to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions; and
- (h) to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its functions and the carrying into effect the purposes of this Act.

16. Authentication of orders and documents of Corporation. -

All permissions, orders, decisions, notices and other documents of the Corporation shall be authenticated by the signature of the Chief Executive Officer of the Corporation.

17. Power to levy service charge. - Notwithstanding anything contained in any contract or any law for the time being in force, it shall be lawful for the Corporation to levy development cost. fees or service charges to cover its expenses on construction and maintenance of roads, drainage, water-supply and such other services and amenities as may be provided by it including provision of street lighting, at such rates as may be prescribed from time to time and such cost, fees and charges may be levied on the plot holders or other persons receiving benefit of the services or amenities.

18. Directions by the State Government. - The State Government may issue to the Corporation such general or special directions as to policy as it may think necessary or expedient for carrying out the purposes of this Act, and the Corporation shall be bound to follow and act upon such directions.

CHAPTER IV

Finance, accounts and audit

19. Application of Corporation's assets. - All property, fund and other assets vesting in the Corporation shall be held and applied by it, subject to the provisions and for the purposes of this Act.

20. Corporation's fund. -The Corporation shall have and maintain its own fund, to which shall be credited -

- (a) all amounts received by the Corporation from the State Government by way of grants, subventions, loans, advances or otherwise;
- (b) all fees, costs and charges received by the Corporation under this Act;
- (c) all amounts received by the Corporation from the disposal of lands, buildings and other properties movable and immovable and other transactions;
- (d) all amounts received by the Corporation by way of rents and profits or in any other manner or from any other source;
- (e) all amounts received by the Corporation from Government undertakings, Companies, Financial Institutions, Commercial Banks or from any other source.

21. Grants, subventions, loans and advances to the Corporation. - The State Government may after due appropriation made by the State Legislature by law in this behalf, make such grants, subventions, loans and advances to the Corporation as it may deem necessary for the performance of the functions of the Corporation under this Act; and all grants, subventions, loans and advances made shall be on such terms and conditions as the State Government may after consulting the Corporation determine.

22. Power of Corporation to borrow and guarantee of loans. -

(1) The Corporation may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

(2) Rules made by the State Government for the purposes of this section may empower the Corporation to borrow by the issue of bonds or stock or otherwise.

(3) The maximum amount which the Corporation may at any time have on loan under sub-S. (1) shall be fifty crores of rupees, unless the State Government with the approval of the State Legislative Assembly, fixes a higher maximum amount.

(4) The State Government may guarantee in such manner as it thinks fit the payment of the principal and interest of any loan proposed to be raised by the Corporation or of either the principal or the interest;

Provided that the State Government shall, so long as any such guarantees are in force, lay before the State Legislature in every year during the first session of the Legislature, a statement of the guarantees, if any, given during the current financial year and an up-to-date account of the total sum, if any, which have been paid out of or into the State Revenues towards repayment of any money so paid out.

23. Deposits. - The Corporation may accept deposits on such terms and conditions as it deems fit from persons, authorities or institutions, to whom allotment or sale of land, buildings or sheds is made or is likely to be made in furtherance of the objects of this Act.

24. Reserve and other funds. - (1) The Corporation shall make provisions for such reserve and other specially denominated funds as the State Government may, from time to time, direct.

(2) The management of the funds referred to in sub-S. (1), the sum to be transferred from time to time to the credit thereof and the application of money comprised therein shall be determined by the Corporation.

(3) None of the funds referred to in sub-S. (1) shall be utilised for any purpose other than that for which it was constituted without the previous approval of the State Government.

25. Expenditure from funds. - (1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorised under this Act from out of the general funds of the Corporation referred to in S.20 or from the reserve and other funds referred to in S.24, as the case may be.

(2) Without prejudice to the generality of the power conferred by sub-S. (1), the Corporation may contribute sums, as it thinks fit, towards expenditure incurred or to be incurred by any local authority or statutory public undertaking in the performance, in relation to any of its industrial estates or industrial areas, of any of the statutory functions of such authority or undertaking, including expenditure incurred in the acquisition of land.

(3) The Corporation shall have authority to advance loans, with or without security on interest, to its employees.

26. Budget and programme of work. - (1) The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the State Government for approval an annual financial statement and the programme of work for the succeeding financial year.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed.

(3) The Corporation shall be competent to make variations in the programme of work in the course of the year; provided that all such variations and reappropriations out of the sanctioned budget are brought to the notice of the State Government by a supplementary financial statement.

(4) A copy each of the annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before the State Legislature as soon as may be after their receipt by the State Government.

27. Accounts and audit. - (1) The Corporation shall maintain books of accounts and other books in relation to its business and transactions in such form, and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an auditor appointed by the State Government, in consultation with the Comptroller and Auditor- General of India.

(3) As soon as the accounts of the Corporation are audited, the Corporation shall send a copy thereof together with the copy of the report of the auditor thereon to the State Government.

(4) The State Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-S.(3) to be laid annually before the State Legislature.

28. Concurrent and special audit accounts. -(1) Notwithstanding anything contained in the last preceding section, the State Government may, by order, direct that there shall be concurrent audit by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transactions or to a particular period.

(2) When an order is made under sub-S. (1), the Corporation shall present or cause to be presented for audit such accounts and shall furnish to the persons appointed under sub-S. (1), such information as the said person may require for the purpose of audit.

CHAPTER V

Applicability of certain laws

29. Application of Orissa Public Premises (Eviction) Act, 1972, to Corporation premises. - (1) The State Government may, by notification, provide that from such date as is stated there in the Orissa Public

Premises (Eviction of-Unauthorised Occupants) Act, 1972 (Orissa Act 7 of 1972) shall, subject to the provisions of sub-S.(2), apply to the premises belonging to vesting in, or leased by the Corporation.

(2) On a notification being issued under sub-S. (1). the aforesaid Act and the rules made thereunder shall apply to premises of the Corporation with the following modifications, namely :

(a) the State Government shall appoint an officer of the Corporation who is holding or has office other whether under the Government or the Corporation, which in the opinion of the State Government is not lower in rank than that of a Deputy Collector or an Assistant Engineer, to be the Estate Officer for the purposes of the aforesaid Act and one or more officers may be appointed as Estate Officers for different areas or for the same area;

(b) reference to "public premises" in that Act and those rules shall be deemed to be reference to premises of the Corporations and references to "the State Government" in S.6, 12 and 15 thereof shall be deemed to be references to the Corporation.

30. Non-applicability of certain Acts. - (1) The Orissa House Rent Control Act, 1967 (Orissa Act 4 of 1968) shall not apply -

(a) to any premises belonging to or vesting in the Corporation under or for the purposes of this Act;

(b) as against the Corporation to any tenancies or like relationship created by the Corporation in respect of any premises; but shall apply to any premises let to the Corporation.

(2) The provisions of the Orissa Town Planning and Improvement Trust Act, 1956 (Orissa Act 10 of 1957), shall not apply to the premises belonging to or vested in the Corporation or to any industrial estate for a period of ten years from the date of commencement of this Act.

(3) The State Government may, by notification, exempt any such premises or estate as aforesaid from any of the provisions of the Orissa Municipal Act, 1950 (Orissa Act 23 of 1950) for such period, not exceeding ten years, as may be specified in the notification.

CHAPTER VI

Acquisition and disposal of land

31. Acquisition of land. - (1) Whenever any land is required, by the Corporation for any purpose of furtherance of the objects of this Act, but the Corporation is unable to acquire it by agreement, the State Government may, upon an application of the Corporation in that behalf, order proceedings to be taken under the Land Acquisition Act, 1894 (1 of 1894) for acquiring the same on behalf of the Corporation as if such lands were needed for a public purpose within the meaning of that Act.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such land shall be forthwith paid by the Corporation and thereupon, the land shall vest in the Corporation.

32. Transfer of Government lands to the Corporation. - (1) For the furtherance of the objects of this Act the State Government may, upon such conditions as may be agreed upon between the Government and the Corporation, place at the disposal of the Corporation any land vested in the State Government.

(2) After any such land had been developed by or under the control and supervision of the Corporation it shall be dealt with by the Corporation in accordance with the regulations made under this Act and the directions given by the State Government in that behalf.

33. Disposal of land by the Corporation. - (1) Subject to any directions given by the State Government the Corporation may dispose of-

- (a) any land acquired by the State Government and transferred to it, without undertaking or carrying out any development thereon; or
- (b) any such land after undertaking or carrying out such development as it thinks fit.

to such person in such manner and subject to such terms and conditions, as it considers expedient for securing the purposes of this Act.

(2) The powers of the Corporation with respect to the disposal of land under sub-S. (1) shall be so exercised as to secure, so far as practicable, that -

- (a) where the Corporation proposes to dispose of by sale any such land which is surplus to its requirement, the Corporation shall offer the land in the first instance to the persons from whom it was acquired, if they desire to purchase it, subject to such requirements as to its development and use as the Corporation may think fit to impose.
- (b) persons who are residing or carrying on business or other activities on any such land shall, if they desire to obtain accommodation on land belonging to the Corporation and are willing to comply with any requirements of the Corporation as to its development and use have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.

(3) Nothing in this Act shall be construed as enabling the Corporation to dispose of land by way of gift, but subject as aforesaid; reference in this Act to the disposal of land shall be construed as reference to the disposal thereof in any manner whether by way of sale, mortgage, exchange, or lease or by the creation, of any easement, right or privilege or otherwise.

34. Acquisition of unutilised surplus lands in industrial areas and allotment to other industries. - (1) With a view to ascertaining whether any plot allotted in an industrial area developed by the Corporation has been utilised for industrial purposes or not, the Board shall carry out six-monthly review as to how much unutilised area of each plot is capable of

sub-division and whether the unutilised area can be utilised for any other purpose under this Act after sub-division, and shall issue notice to the plot holders in the industrial area calling upon them to furnish to it relevant information in the prescribed form and when so called upon each plot holder shall be bound to furnish true and correct information required within one month from the date of receipt of such notice by him.

(2) For the purpose of enabling the Board to determine whether there is any unutilised portion of any plot in the industrial area and whether such portion is capable of sub-division so as to make it useful for any other purpose under this Act after sub-division, it shall be lawful for any officer of the Corporation, either generally or specially authorised by the Board in this behalf, and for his servants and workmen at all reasonable hours -

- (i) to enter upon and survey the plot;
- (ii) to set out the boundaries of the utilised portion of the plots; and
- (iii) to do all other acts necessary for the purposes aforesaid,

(3) If the Board is satisfied that any plot holder has not utilised the maximum area of his plot suitable for construction of buildings for a period of three years or more from the date on which possession of the plot was delivered to him by the Board and the utilised portion is capable of subdivision so as to make it useful for any other purpose under this Act, the Board may, notwithstanding anything contained in any contract or in any law for the time being in force, issue to the plot holder and all other persons interested in the plot notice to show cause why such unutilised portion should not be acquired for the purpose of being utilised for any other purpose under this Act. The Board shall also cause public notice to be given in the manner laid down in S.46.

(4) When any such notice is issued, the Board shall give a reasonable opportunity of being heard to the plot holder and other persons interested in the plot and it shall be open to the plot holder or any other person interested in the plot to appear and object to such resumption on the ground that the unutilised portion is required by the plot holder himself for the purpose of immediate expansion of his own industry and that he has already taken effective steps for utilising such portion.

(5) If after giving a reasonable opportunity of being heard, the Board is satisfied that the holder of the plot has failed to utilise or is not likely to utilise the unutilised portion for industrial purposes within a reasonable period, and such unutilised portion can be used for any other purpose under this Act, the Board may, notwithstanding anything contained in any contract or in any law for the time being in force, for the purpose of enabling the Corporation to properly discharge its functions of promoting rapid growth and development of industries under this Act on such unutilised portion, resume the unutilised portion of the land by giving a notice to the holder of the plot. On and from the date of such notice the unutilised portion of land specified in the notice shall vest absolutely in the Corporation, free from all encumbrances.

(6) Where any land is vested in the Corporation under the last preceding sub-section, the Board may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the Board or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(7) If any person refuses or fails to comply with an order made under the last preceding sub-section, the Board may take possession of the land, and may for the purpose use such force as may be necessary.

(8) Where any land is resumed by the Board under this section the Corporation shall pay for such resumption an amount not exceeding the proportionate amount of premium paid by the plot holder or his predecessor-in-title claiming under the Corporation in respect of the land so resumed, with interest thereon at six per cent per annum from the date of payment of the premium, and where the lease is a rental lease the amount to be awarded shall not exceed an amount equal to three times the net average yearly proportionate rent payable by the plot holder to the Corporation in respect of the land so resumed.

CHAPTER VII

Supplementary and miscellaneous provisions

35. Power of the Corporation in case of certain defaults by owner of land in industrial area. - (1) If the Corporation, after holding a local enquiry or upon report from any of its officers or other information in its possession, is satisfied that the owner of any land in an industrial area has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or to carry out any development of the land for which permission has been obtained under this Act, the Corporation may serve upon the owner a notice requiring him to provide the amenity or carry out the development within a reasonable time to be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, the Corporation may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit;

Provided that, before taking any action under this sub-section, the Corporation shall afford reasonable opportunity to the owner of the land to show cause as to why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest, at such rate as the State Government may by order fix, from the date which a demand for the expenses is made until payment shall be recoverable by the Corporation from the owner.

36. Order of demolition of building. - (1) Where the erection of any building in an industrial estate or industrial area has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on

which it stands is held or granted under this Act, any officer of the Corporation empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the officer may himself cause the erection to be demolished and expenses of such demolition shall be recoverable by the Corporation from the owner :

Provided that no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order made under sub-S. (1) may prefer an appeal against that order within thirty days from the date thereof to the Executive Commissioner of the Corporation. Such Committee may after hearing the parties to the appeal either allow or dismiss the appeal or reverse or vary any part of the order.

(3) The decision of the Committee on the appeal and subject only to such decision, the order made by the officer under sub-S. (1) shall be final.

37. Power to stop building operations. - (1) Where the erection of any building in an industrial estate or industrial area has been commenced or is being carried on or any existing building is altered, in contravention of the terms in which such building or the land on which it stands is held or granted under this Act, any officer of the Corporation empowered in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order requiring the building operations in relation to such erection to be discontinued on and from the date of the service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under sub-S. (1), the Corporation or the officer empowered as aforesaid may require any police officer to remove the person by whom the erection of the building has been commenced and all his assistants and workmen from the place of the building within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) After a requisition under sub-S. (2) has been complied with, the Corporation or the officer empowered as aforesaid may depute by a written order a police officer or an officer or employee of the Corporation to watch the place in order to ensure that the erection of the building is not continued.

(4) Any person failing to comply with an order made under sub-S.(1) shall, on conviction, be punishable with fine, which may extend to two hundred rupees for every day during which such non-compliance continues after the service of the order.

(5) No compensation shall be payable to any person for any damage or loss which he may sustain in consequence of any order made under this section.

38. Penalty for construction or use of land and buildings contrary to terms of holding. - (1) Any person who, whether at his own instance or at the instance of any other person, undertakes or carries out construction of or alterations to any building in an industrial estate or industrial area contrary to the terms under which he holds such building or land under this Act, shall on conviction, be punishable with fine which may extend to ten thousand rupees, and in the case of a continuing contravention, with a further fine which may extend to two hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in an industrial estate or industrial area contrary to the terms under which he holds such land or building under this Act or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punishable with fine which may extend to five thousand rupees.

39. Power to lay pipelines, etc. - (1) Within any area taken up for development under paragraph (b) of Cl. (ii) of S.14, and for the purposes of (a) carrying gas, water or electricity from a source of supply to, or (b) constructing any sewers or drains necessary for carrying off the workings and waste liquids of an industrial process through any intervening area, the Board or any person empowered in this behalf by the State Government by notification (hereinafter in this section referred to as "the authorised person") may lay down, place, maintain, alter, remove or repair any pipes, pipelines, conduits, supply or service lines, posts or other appliances or apparatus in, on, under, over, along or across any land in such areas.

(2) The Board or the authorised person may at any time enter upon any land in any such area and in such event the provisions of S.40 shall, mutatis mutandis, apply.

(3) While exercising the power conferred by sub-S.(1) the Board or the authorised persons shall cause as little damage as possible to property; and compensation for any damage sustained by them in consequence of the exercise of such powers as aforesaid shall be paid to all persons interested by the Corporation, or in the case of the authorised persons, by the State Government.

(4) Nothing herein shall authorise or empower the Corporation or the authorised person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down :

Provided that nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the State Government in the normal course.

40. Power of entry. - Any officer of the State Government, any Director of the Board, and any person either generally or specially authorised by the Board in this behalf, may enter into or upon any land or building with or without assistance of workmen for the purpose of -

- (a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land or building;
- (b) examining works under construction and ascertaining the course of sewers and drains;
- (c) digging or boring into the sub-soil;
- (d) setting out boundaries and intended lines of work;
- (e) marking such levels, boundaries and lines by placing marks and cutting nrethes;
- (f) doing any other thing necessary for the efficient administration of this Act;

Provided that -

- (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building;
- (ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from such land or building; and
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

41. Officers of the Corporation may be vested with other powers.-

The State Government may, by notification nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the industrial undertakings established or to be established in industrial estates or industrial areas entrusted to or developed by the Corporation and no such nomination shall be called into question merely on the ground that such officer is not an officer of the State Government.

42. Overriding powers of Government to issue directions to local authorities. - Notwithstanding anything contained in any other law, or in any license or permit, if the State Government is satisfied either on a recommendation made in this behalf by the Board or otherwise, that the setting up of an industrial undertaking, whether within an industrial area or outside, is impeded by a local authority's refusal to grant, or by such authority's insistence on conditions which the State Government considers

unreasonable for the grant of any amenity, the State Government may direct the local authority to grant the said amenity on such conditions as the State Government may consider fit, and thereupon the amenity shall be granted :

Provided that the charge to be paid for granting or continuing such amenity to the local authority concerned shall not be less than the cost incurred by the local authority or licensee concerned for providing such amenity;

Provided further that, no such direction shall be made by the State Government without giving the local authority a reasonable opportunity to show cause why any such direction should not be made.

43. Restriction on lease permission in adjoining areas in certain cases. - If any person or company applies to the Collector or any other competent authority for lease of Government land or for permission to convert agricultural land into non-agricultural use for setting up of an industrial undertaking or for locating a brick kiln, quarry or for any other use which may be detrimental to the orderly growth of an industrial estate and if such Government land or agricultural land is situated within a radius of five kilometers of the outer boundary of the said industrial area or estate, the Collector or the competent authority shall not grant such lease or permission without prior consultation with the Board :

Provided that where the Collector or the competent authority overrides the objection of the Board, he will give reasons therefor in writing to the Board, whereupon the Board may appeal to the prescribed authority;

Provided further that no action shall be taken on the order of the Collector or the competent authority till such appeal is disposed of;

Provided also that the provisions of this section shall not apply to any village industry, cottage industry or tiny sector industry.

Explanation. For the purposes of this section -

- (i) the expressions "village industry" and "cottage industry" shall have the same meaning as assigned to them under the Orissa State Aid to Industries Act, 1978 (Orissa Act 32 of 1978);
- (ii) "tiny sector industry" shall mean such industry as may be declared by the State Government, from time to time, to be a tiny sector industry.

44. Executive Committee. (1) There shall be an Executive Committee which shall consist of -

- (a) the Chairman of the Board of Directors;
- (b) the Managing Director of the Corporation; and
- (c) three other members elected by the Board from among the Directors of whom at least one shall be a Director nominated under Cl.(xii) of sub-S. (2) of S.4.

(2) The Chairman of the Board shall preside over the meetings of the Committee and the business of the Committee shall be conducted in such manner as may be provided in the Regulations made under this Act.

(3) The Committee shall render all such assistance to the Board as it may require from time to time and shall perform such other functions as are assigned to it by or under this Act.

45. Service of notices, etc. - (1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation, be deemed to be duly served -

(a) where the person to be served in a company, if the service is effected in accordance with the provisions of S.51 of the Companies Act, 1956 (1 of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either -

(i) sent by registered post; or

(ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other body, if the document is addressed to the secretary, treasurer or other chief executive officer of that body, corporation or society at its principal office, and is either -

(i) sent by registered post; or

(ii) left at that office;

(d) in any other case, if the document is addressed to the person to be served and -

(i) is given or tendered to him; or

(ii) if such person cannot be found,

is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building whose name is not known, may be addressed to "the owner" or "the occupier", as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served -

(a) if the document so addressed is sent or delivered in accordance with Cl.(d) of sub-S. (1); or

(b) if the document so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building who appears to be occupying the same or, where there is no such

person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on the firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier, if any, of the property may be required by notice in writing by the State Government or the Corporation as the case may be, to state the name and address of the owner thereof.

46. Public notices how to be made known. - Every public notice given under this Act or any rule or regulation made thereunder shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be affected thereby by affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two or more of these means, and by any other means that the officer may think fit.

47. Notices, etc. to fix reasonable times. - Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder, requires anything to be done for the doing of which no time is fixed in this Act or the rule or regulation, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

48. Furnishing of returns, etc. - (1) The Board shall furnish to the State Government returns, statistics, reports, accounts and other information with such respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the State Government may, from time to time, require.

(2) The Board shall, in addition to the audit report referred to in S.27 furnish to the State Government an annual report of its working as soon as may be after the end of each financial year in such form and with such details as may be prescribed, and a copy of the annual report shall be placed before the State Legislature as soon as may be after it is received by the State Government.

49. Transfer of existing areas and estates to the Corporation. -

The State Government may by notification and subject to such terms and conditions as may be specified therein, place any industrial area or industrial estate established prior to the date of commencement of this Act under the management and control of the Corporation, and thereupon, the provisions of this Act shall apply to such industrial area and industrial estate as if the industrial area were declared and the industrial estate were established under this Act.

50. Withdrawal of area or estate or part thereof - Where the State Government is satisfied that with respect to any particular industrial estate or industrial area, or any part thereof, the purpose for which the Corporation was established under this Act has been substantially achieved so as to render the continued existence of such estate or area or part thereof under the Corporation unnecessary, the State Government may, by notification, declare that such industrial estate or industrial area or part thereof has been removed from the jurisdiction of the Corporation. The State Government may also make such other

incidental arrangements for the administration of such estate or area or part thereof as the circumstances require.

51. Default in performance of duty. - (1) If the State Government is satisfied that the Board has made a default in performing of any duty or obligation imposed or cast on it by or under this Act, the State Government may fix a period for the performance of that duty or obligation and give notice to the Board accordingly.

(2) If in the opinion of the State Government, the Board fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the State Government to supersede and reconstitute the Board.

(3) After the super session of the Board and until it is reconstituted in the manner laid down in Chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the State Government or by such officer or officers or body of officers as the State Government may appoint for this purpose from time to time.

(4) All property vested in the Corporation shall, during the period of super session, vest in the State Government.

52. Dissolution of Corporation. - (1) Where the State Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the State Government unnecessary, it may, by notification, declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, and the Corporation shall be deemed to be dissolved accordingly.

(2) From the said date -

(a) all properties, funds and dues which are vested in, or realisable by, the Corporation shall vest in or be realisable by, the State Government:

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the State Government.

53. Authority for prosecution. - Unless otherwise expressly provided, no Court shall take cognizance of any offence relating to any property belonging to, or vested by or under this Act in, the Corporation, punishable under this Act, except on the complaint of, or upon information received from, the Board or some person authorised by the Board by general or special order in this behalf.

54. Composition of offences by Board. - (1) The Board or any person authorised by the Board by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence punishable by or under this Act.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

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

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

(2) Notwithstanding anything contained in sub-S.(1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed 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. includes a partner or proprietor of the firm.

55. Penalty for obstruction. - Any person who obstructs the entry of a person authorised under S. 40 to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act, shall, on conviction be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

57. Recovery of dues. - Any money payable to the Corporation in respect of which the person liable to pay the same has agreed by a written instrument that it shall be recoverable as a public demand, shall, on an application made by the Corporation in that behalf, be recoverable as such demand.

58. Power to make rules. - (1) The State Government may, after consultation with the Corporation in regard to matters concerning it, make rules to carry out the purposes of this Act :

Provided that consultation with the Corporation shall not be necessary on the first occasion of the making of rules under this section.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (a) the fees and allowances payable to the Directors;
- (b) the conditions of appointment and service and the scale of pay of the Managing Director;
- (c) the conditions subject to which the Corporation may borrow;

- (d) the date by which the annual financial statement and programme of work shall be submitted by the Corporation to the State Government and the form and manner of preparing such statement;
- (e) the manner of maintaining accounts;
- (f) the form of, and the details to be given in the annual report;
- (g) the fees which may be charged by the Corporation;
- (h) the conditions subject to which the Corporation may dispose of land, buildings and amenities;
- (i) any other matter which has to be or may be prescribed.

(3) All rules made under this Act, shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form, so, however, that such modification shall be without prejudice to the validity of anything previously done under the rules.

59. Power to make regulations. - (1) The Corporation may, with the previous approval of the State Government make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for-

- (a) the time and place of meetings of the Board and the procedure to be followed in regard to the transaction of business at such meetings;
- (b) the conditions of appointment and service and the scales of pay of officers and servants of the Corporation, other than the Managing Director;
- (c) deployment of funds of the Corporation and the officers of the Corporation who may operate its accounts;
- (d) the terms under which the Corporation may dispose of land, buildings and amenities;
- (e) the additional terms and conditions subject to which lands and buildings in industrial estates and industrial areas may be held or used;
- (f) the conduct of business of the Executive Committee;
- (g) any other matter which has to be or may be provided by regulations.

(2) All regulations made under this Act, shall, as soon as may be after they are made be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, the regulations shall thereafter have effect only in such modified form, so however that such modification shall be without prejudice to the validity of anything previously done under the regulations.

60. Protection of action taken in good faith. - No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith

done or intended to be done under this Act or any rule or regulation made thereunder.

61. Directors, officers and staff of Corporation to be public servants. - The Directors of the Board and the officers and servants of the Corporation shall, when acting or purporting to act, in pursuance of any of this Act. be deemed to be public servants within the meaning of S.21 of the Indian Penal Code (45 of 1860).

62. Effect of provisions inconsistent with other laws – The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

63. Power to remove doubts and difficulties. - If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make provision or give such direction not inconsistent with the express provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty and the order of the State Government, in such cases, shall be final:

Provided that no such order shall be made or direction shall be given after the expiration of a period of two years from the date of commencement of this Act.