

THE ORISSA RIVER POLLUTION PREVENTION ACT, 1953**TABLE OF CONTENTS****PREAMBLE :***Cluses*

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ORISSA ACT IV OF 1954.

THE ORISSA RIVER POLLUTION PREVENTION
ACT, 1953

[Received the assent of the President on the 18th March
1954, first published in the Orissa Gazette,
dated the 2nd April 1954]

AN ACT TO PROVIDE FOR THE REGULATION OF THE DISPOSAL
OF WASTES AND EFFLUENTS INTO RIVERS BY FACTORIES
WITH A VIEW TO THE MAINTENANCE OF THE
CLEANLINESS OF RIVER WATERS IN THE STATE OF
ORISSA AND FOR THAT PURPOSE TO PROVIDE FOR
THE ESTABLISHMENT OF A RIVER BOARD

WHEREAS it is expedient in the public interest to provide
for the regulation of the disposal of wastes and effluents
into rivers by factories with a view to the maintenance of
the cleanliness of river waters in the State of Orissa and
for that purpose to provide for the establishment of a River
Board ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title
extent and
commence-
ment.

*1. (1) This Act may be called the Orissa River
Pollution Prevention Act, 1953.

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

(3) It shall come into force at once.

Definitions

2. In this Act unless there is anything repugnant in the
subject or context—

(a) " Board " means the Orissa River Board consti-
tuted under section 3 ;

(b) " contravene " means fail to comply with and
" contravention " has a corresponding meaning ;

(c) " factory " shall have the meaning assigned to it
in the Factories Act, 1948 ; and " authorities of a factory " shall include the occupier or the manager within the meaning assigned in the said Act and the rules made thereunder ;

(d) " function " includes powers and duties ;

(e) " land " includes land covered by water ;

(f) " prescribed " means prescribed by regulations
made by the Board under this Act ;

* For Statement of objects and reasons see Orissa Gazette
extraordinary dated the 6th March 1953.

(g) "river" includes any stream, water course or inland water (whether natural or artificial) and any tidal water except that it shall not include either—

(i) any body of water which does not discharge (controlled or uncontrolled) into a river ; or

(ii) any sewer vested in a factory, but reference to "river" includes a reference to the channel or bed of a river which is for the time being dry ;

(h) "sewage effluent" includes any effluent from the sewage disposal or sewerage works of a factory ; and

(i) "trade effluent" includes any liquid (either with or without particles of matter in suspension thereunder) which is discharged from any premises other than surface water and domestic sewage.

CHAPTER II

CONSTITUTION AND FUNCTIONS OF THE RIVER BOARD

Constitution
of the
Orissa River
Board.

3. (1) There shall be constituted for the State of Orissa a Board called the Orissa River Board, which shall consist of—

(a) the Minister of Health, Orissa—Chairman, *ex officio* ;

(b) three members of the Orissa Legislative Assembly to be elected from among themselves—Members ;

(c) the Director of Health, Orissa—Member, *ex officio* ;

(d) the Director of Industries, Orissa—Member, *ex officio* ;

(e) a Chemical Examiner to be nominated by the State Government in consultation with the Central Government—Member ; and

(f) the Legal Remembrancer to the State Government—Member, *ex officio*.

(2) It shall be competent for the Board to co-opt persons who in the opinion of the Board represent the interests of the inhabitants of any locality in which a factory is situated or in which the river water is polluted by the wastes and effluents discharged from the factory or who in the opinion of the Board possess special knowledge or experience relating to such wastes and effluents for serving on the Board for such purpose and for such period as the Board may consider fit.

(3) All expenses incurred in connection with the affairs of the Board in carrying out the purposes of this Act shall be met out of the Consolidated Fund of the State.

Duties and functions of the Board.

4. It shall be the duty of the Board to regulate and control the disposal of wastes and effluents into rivers by factories with a view to maintain the cleanliness of river waters in the State of Orissa :

Provided that the Board shall have due regard to the order, judgment or decree of a Court of Law passed prior to the commencement of this Act declaring the wastes and effluents of a factory to be poisonous, noxious or polluting.

The power of the Board to call for report.

5. The Board may, on its own motion or on the application of any person at any time by notification in such form as may be prescribed, require the authorities of any factory in the State of Orissa to submit within such time as may be specified in the said notification a report as respects the disposal by it into any river of any waste or any poisonous, noxious or polluting matter passing as sewage effluent or trade effluent.

Enquires and orders.

6. (1) Upon the receipt of the report or on the expiry of the time specified in the notification under section 5, the Board shall make such enquiries and local inspections as it may deem fit either by itself or by a person duly empowered by it in this behalf. The proceedings of such enquiries or local inspections shall be recorded in writing. The Board shall thereupon consider the report under section 5, if any, along with the results of the enquiries or local inspections and proceed in the matter as hereinafter provided—

(a) if the Board is satisfied that it is reasonably practicable to dispose of the wastes and effluents otherwise than by discharging the same directly or indirectly into the river, it may forthwith, by an order to be served in the prescribed manner, direct the authorities of the factory to take such steps within such time and subject to such terms and conditions, as may be specified in the order, to dispose of the wastes and effluents otherwise than by discharging the same directly or indirectly into the river ;

(b) if the Board is satisfied that it is reasonably practicable by special treatment or otherwise to reduce the polluting effect of the trade wastes and effluents to such an extent as to render them safe for being discharged into the river, it may forthwith by an order to be served in the prescribed manner direct the said authorities to take steps within such time and subject to such terms and conditions as may be specified in the order so that the trade wastes and effluents before being discharged directly or indirectly into the river conform to the prescribed standard :

Provided that if the prescribed standard of the trade wastes and effluents is a standard which does not render the river water fit for human consumption, the Board, may by order further direct the authorities to provide for the purpose such other alternative facilities as may be specified by the Board in that behalf.

(2) All orders passed by the Board under this section shall be forthwith notified in the Gazette and on such publication shall, subject to the provisions of this Act, be binding on the authorities of the factory concerned.

(3) The Board or any authority empowered by the Board in this behalf may, at any reasonable time, enter and inspect any sewerage or premises of a factory for the purpose of seeing whether the provisions of this Act or any regulations or orders made thereunder are being contravened or not and the authorities of the factory shall provide such facilities for the purpose as may be required from time to time by the Board.

Application
to the
Board.

7. (1) Any person aggrieved by any order of the Board under section 6 may, within thirty days from the date of publication of the order in the Gazette, make an application to the Board setting out the grounds on which the said order is called into question.

(2) The Board shall thereupon fix a date for the hearing of the application and summon the applicant and such other persons as it may deem necessary to appear in the proceedings on the said date.

(3) On the date fixed under sub-section (2) or on any subsequent date to which the proceedings may be adjourned, the Board shall consider the said application and make an order either rejecting the application or altering or modifying the order under section 6.

Powers of
the Board.

8. (1) The Board constituted under section 3 shall hold its sitting in such place as it may deem necessary and the decision of the majority shall prevail.

(2) The Board shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, V of 1908 when making an order under section 6 or section 7 in respect of the following matters, namely :—

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

(b) compelling the production of documents ;

(c) issuing commissions for the examination of witnesses ; and

(d) in respect of such other matters as may be prescribed ;

and any such proceeding before the Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

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(3) The order of the Board made under section 6 or section 7, as the case may be, shall be final and binding on all persons concerned and shall not be called into question in a Court of Law.

(4) Notwithstanding anything contained in sub-section (3) the Board may, from time to time under such circumstances as it may deem fit review any order passed under section 6 or section 7 in such manner as may be prescribed. The order passed on review shall be deemed to be an order under section 6 or section 7 as the case may be.

Power to grant licence.

9. Notwithstanding anything contained in any law for the time being in force, no person (or authority of any factory) shall without a licence granted by the Board in pursuance of this Act to the authorities of the factory discharge or cause to be discharged from the factory directly or indirectly into any river, any sewage effluent or trade effluent.

Grant of licences with respect to the existing factories.

10. (1) In the case of a factory working at the date of the commencement of this Act the authorities of the factory shall apply to the Board in the prescribed manner for the issue of a licence within a period of two months from the date of the notification in the Gazette of the first constitution of the Board under this Act.

(2) On receipt of an application under sub-section (1) the Board shall proceed so far as may be in the manner as provided in section 5 and sub-section (1) of section 6. If the Board is satisfied as mentioned in clause (a) of sub-section (1) of section 6 the application shall be disposed of accordingly. If the Board is satisfied as mentioned in clause (b) of the said sub-section the Board may issue directions to the authorities of the factory as laid down in the said clause and on compliance with the said direction the Board, subject to the provisions of this Act order the issue of a licence to the said authorities subject to such terms and conditions as may be specified therein.

Grant of licence to new factories.

11. (1) Every person intending to construct or establish any factory the sewage effluent or trade effluent of which is proposed to be discharged into any river shall prior to the establishment of the factory apply to the Board for a licence in the prescribed manner.

(2) On receipt of the application under sub-section (1) the Board may make such inquiries and local inspections as it may deem fit either by itself or by a person duly empowered by it in this behalf and may subject to the provisions of this Act or regulations made thereunder order the issue of the licence applied for subject to such terms and conditions as may be specified in the licence.

Finality to the orders of the Board in granting licences.

12. (1) All orders granting or refusing a licence shall be forthwith notified in the Gazette and provisions of section 7 and sub-section (2) of section 8 shall so far as may be, apply.

(2) Subject to the provisions of sub-section (1) but without prejudice to the generality of the foregoing provisions of this Act orders under sections 10 and 11 shall be final and shall not be called into question in a Court of Law.

Revocation
of licences
and penal-
ties.

13. (1) Any licence granted in pursuance of this Act shall, on the non-fulfilment of any of the terms and conditions specified therein, be liable to be revoked by the Board and the order of the Board shall be final and conclusive :

Provided that the licence shall not be so revoked without giving the authorities of the factory an opportunity to show cause against the revocation of the licence :

Provided further that if the discharge of the sewage effluent or trade effluent into the river continues after the revocation of the licence the said revocation shall not affect the liability otherwise incurred or to be incurred on account of any contravention of any order or direction of the Board under the provisions of this Act.

(2) Whoever acts in contravention of the provisions of section 9 shall on a complaint by the Board or a person duly authorised by the Board in this behalf be liable on conviction to be punished with simple imprisonment for a period not exceeding three months or with fine not exceeding one thousand rupees or with both ; and no Court inferior to that of a Magistrate of first class shall try any such offence.

Power of
the Board
to make
regulations.

14. The Board with the approval of the State Government may, as in the opinion of the Board occasion requires, for the purposes of this Act, either generally or as regards any particular factory or class of factories, make regulations regarding all or any of the following matters :—

- (a) the form of notification under section 5 ;
- (b) the form of the order under section 6 ;
- (c) the manner in which the Board shall carry out its functions, maintain its records, grant copies thereof, charge fees, if any, in relation to proceedings before it ;
- (d) standards for the purpose of determining what matter is to be treated as poisonous, noxious or polluting for the purpose of this Act ; and
- (e) any other matter required or expressly or impliedly authorised under this Act.

Immunity
from civil
or criminal
action.

15. (1) When the authorities of a factory have complied with the provisions of this Act and the rules and orders made thereunder for the purification of wastes and effluents, whether sewage effluent or trade effluent it shall be lawful for such authorities to discharge such wastes and effluents into any river and no liability, civil or criminal, shall attach to the authorities of the factory, as respects anything adversely affecting the rights and privileges of any person, directly or indirectly, as a result of such compliance.

(2) When in pursuance of any order of the Board under this Act the authorities of any factory have disposed of such wastes and effluents and continue their disposal under the terms and conditions determined by the Board, such disposal shall, subject to the provisions of section 4, be lawful and valid notwithstanding anything contained in any law for the time being in force or any order, judgment or decree of a Civil Court.

Penalty

16. (1) If in contravention of any order or direction of the Board during the absence or continuance of a licence or after revocation thereof any person—

(a) fails to submit a report under section 5 ; or

(b) causes or permits to enter a river any poisonous, noxious or polluting matter ; or

(c) causes or permits to enter a river any matter so as to tend either directly or in combination with similar acts (whether his own or of another) to impede the proper flow of the water of the river in a manner leading or likely to lead to substantial aggravation of pollution due to other causes or of its consequence ; or

(d) deposits on any land the solid refuse of any factory or mine or quarry so that it falls or is carried into a river ; or

(e) obstructs the Board or any authority empowered by it in the exercise of their powers and the due discharge of their duties ;

the Board after giving the person an opportunity of being heard in the manner prescribed may without prejudice to the generality of the foregoing provisions of this Act impose a penalty not exceeding twenty thousand rupees and such daily penalty not exceeding five thousand rupees for each subsequent day of non-compliance with the orders of the Board :

Provided that nothing in this section shall apply to a factory the application for a licence with respect to which is under consideration by the Board under section 10.

(2) The provisions of sub-section (2) of section 8 shall apply so far as may be to the proceedings under this section.

(3) All amounts due to be recovered under this Act shall on a requisition from the Board in the prescribed manner be recovered by the Collector of the district as an arrear of land revenue under the provisions of law for the time being in force in such district for the recovery of arrears of land revenue and on realisation of the same by the Collector such amount shall be credited to the Consolidated Fund of the State.

(4) The orders of the Board in pursuance of the provisions of this section shall be final and binding and shall not be called into question in a Court of Law.

Protection
of action
taken in
good faith.

17. No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Provisions
not to over-
ride the
provisions
of the Fac-
tories Act.

18. The provisions of this Act shall be deemed to be in addition to and not in derogation of the provisions of the Factories Act, 1948 or the rules framed thereunder.

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1948.