

THE TALCHER THERMAL POWER STATION (ACQUISITION AND TRANSFER) ACT, 1994**TABLE OF CONTENTS****PREAMBLE****SECTIONS****PRELIMINARY****CHAPTER I**

1. Short title and commencement
2. Definitions

CHAPTER II**ACQUISITION AND TRANSFER OF POWER STATION**

3. Transfer to and vesting in the State Government of the Power Station
4. General effect of vesting
5. Vesting of the Power Station in the Corporation
6. State Government of the Corporation not to be liable for prior liabilities

CHAPTER III**PAYMENT OF AMOUNT**

7. Payment of amount by the State Government
8. Payment of amount by the Corporation

CHAPTER IV**DELIVERY OF POSSESSION**

9. Duty of persons to account of assets, etc. in their possession

CHAPTER V**PROVISIONS RELATING TO EMPLOYEES OF THE POWER STATION**

10. Absorption of employees
11. Terms and conditions of service of employees of Power Station not to be varied to their disadvantage
12. Reversion of deputationists
13. Status of employees of Power Station on its vesting with the Corporation
14. Employees not be entitled to compensation
15. Transfer of provident fund money to the Corporation

CHAPTER VI**DETERMINATION OF PAYMENT BY THE STATE GOVERNMENT**

16. Appointment of Commissioner
17. Determination of compensation

CHAPTER VII**MISCELLANEOUS**

18. Overriding effect of the Act
19. Penalties
20. Offence by the Board or a Company
21. Protection of action taken in good faith
22. Power to make rules
23. Power to remove difficulties

The SCHEDULE

***THE TALCHER THERMAL POWER STATION (ACQUISITION AND TRANSFER) ACT, 1994**

[Received the assent of the President on the 3rd May 1995 first published in an extraordinary issue of the *Orissa Gazette*, dated the 18th May 1995.]

AN ACT TO PROVIDE FOR THE ACQUISITION AND TRANSFER OF THE RIGHT, TITLE AND INTEREST OF THE ORISSA STATE ELECTRICITY BOARD IN RELATION TO THE TALCHER THERMAL POWER STATION SITUATED AT TALCHER IN THE DISTRICT OF ANGUL IN THE INTEREST OF NATIONAL POWER DEVELOPMENT, TO CARRY OUT RENOVATION AND MODERNISATION AND TO ACHIEVE LIFE EXTENSION OF THE SAID POWER STATION AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Whereas, the Talcher Thermal Power Station is wholly owned and managed by the Orissa Electricity Board, a statutory body constituted by the State Government under the Electricity (Supply) Act, 1948 with a total generating capacity of 460 MW of electricity;

And whereas, the said Power Station has not been able, due to financial and technical constraints, to operate continuously at its optimum capacity resulting loss in generation of electricity;

And whereas, the said Board or the State Government is not in a position to provide additional funds necessary to achieve the optimum production.

It is hereby enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER I**PRELIMINARY**

Short title and commencement.

1. (1) This Act may be called the Talcher Thermal Power Station (Acquisition and Transfer) Act, 1994.

(2) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

Definitions

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

(a) "appointed day" means the date of commencement of this Act;

(b) "Board" means the Orissa State Electricity Board constituted under the 54 of 1948. Electricity (Supply) Act, 1948;

(c) "Commissioner" means the Commissioner appointed under section 16;

(d) "Corporation" means the National Thermal Power Corporation Ltd., a Government company within the meaning of the Companies Act, 1956, 1 of 1956, and having its registered office at 7, Institutional Area, NTPC Bhawan, Core-7, Scape Complex, Lodi Road, New Delhi-110003;

(e) "Power Station" means the Talcher Thermal Power Station including all associated facilities, etc. of the Board, situated at Talcher in the district of Angul;

(f) words and expressions used herein but not defined in this Act and defined in the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 9 of 1910. 54 of 1948. shall have the meaning respectively assigned to them in those Acts.

CHAPTER II**ACQUISITION AND TRANSFER OF POWER STATION**

Transfer to and vesting in the State Government of the Power Station.

3. On the appointed day, the Power Station and the right, title and interest of the Board in relation thereto shall, by virtue of this Act, stand transferred to, and vest in, the State Government.

General effect of vesting.

4. (1) The Power Station shall be deemed to include all properties and assets, rights, leaseholds, powers, authorities and privileges and all property movable and immovable including lands, buildings, offices, stores, plants, machinery and equipments,

*For the Bill See *Orissa Gazette*, Extraordinary, dated the 14th December 1994 (No. 1508).

installations, instruments, office furniture, stationery and office equipments, vehicles, staff quarters, workers' colonies together with amenities and installations pertaining thereto, and other rights and interests in, or arising out of, such properties and as they were immediately before the appointed day in the ownership, possession, power and control of the Board in relation to the Power Station whether within or outside the State of Orissa and all books of accounts, registers and other documents of whatsoever nature relating thereto, but not to include cash in hand, cash at bank, investments, book debts other than outstanding advances for procurement of material and equipments for the Power Station) or rights, liabilities and obligations respecting any other contract or Memorandum of understanding or agreement entered into by the Board or the State Government.

(2) If on the appointed day, any suit, appeal or other proceeding of whatsoever nature in relation to any property or asset which has vested in the State Government under section 3, instituted or preferred by or against the Board in relation to the Power Station, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the Power Station or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the State Government or, where the Power Station vests in the Corporation, under section 5, by or against the Corporation, subject to the provisions of section 6.

Vesting of the Power Station in the Corporation.

5. (1) The Power Station vested in the State Government under section 3 shall on such date as the State Government may, by notification, specify in this behalf vest in the Corporation free from all encumbrances and thereafter, the Corporation shall become the owner of the Power Station:

Provided that no such notification shall be made unless a resolution passed by the Corporation for the purpose in conformity with the provisions of this Act is communicated to the State Government.

(2) Land measuring 216.02 acres acquired for Ash Pond in Talcher, in the district of Angul, shall stand transferred to the Corporation, free from all encumbrances, after due physical possession of the land.

State Government or the Corporation not to be liable for prior liabilities.

6. No liability of the Board in relation to the Power Station incurred prior to the appointed day and no award, decree or order of any court, tribunal or other authority in relation to the Power Station passed after the appointed day in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Corporation.

CHAPTER III

PAYMENT OF AMOUNT

Payment of amount by the State Government.

7. For the transfer to, and vesting in, the State Government, under section 3, of the Power Station and the right, title and interest of the Board in relation to the Power Station, there shall be given by the State Government to the Board such amount as may be determined in the manner specified in Chapter VI.

Payment of amount by the Corporation.

8. (1) For the transfer to, and vesting in, the Corporation, under section 5, of the Power Station and the right, title and interest of the State Government in relation to the Power Station, there shall be paid by the Corporation, to the State Government, such amount and in such manner, as is specified in the Schedule.

(2) The State Government may, after consultation with the Corporation, by notification, make suitable changes in the amount and the manner of its payment specified in the Schedule, and on publication of the notification in the Gazette, the Schedule shall stand amended accordingly.

CHAPTER IV

DELIVERY OF POSSESSION

Duty of persons to account for assets, etc. in their possession.

9. (1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to the Power Station which has vested in the State Government or the Corporation under this Act, shall be liable to account for the said assets, books, documents and other papers to the State Government or, as the case may be, to the Corporation, and shall deliver them to the State Government or the Corporation or to such person or persons as the State Government or the Corporation may specify in this behalf.

(2) The State Government or, as the case may be, the Corporation, may take or cause to be taken all necessary steps for securing possession of the Power Station which has vested in the State Government or the Corporation under this Act.

(3) The Board shall, within such period as the State Government may allow in this behalf, furnish to the State Government a complete inventory of all its properties and assets, both movable and immovable, as on the appointed day, pertaining to the Power Station which has vested in the State Government under section 3 and for this purpose, the State Government or the Corporation shall afford to the Board all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE POWER STATION

Absorption
of employees.

10. (1) Every person who has been, immediately before the appointed day, a regular employee of the Power Station, shall, on and from the appointed day, be deemed to be on deputation with the State Government on the same terms and conditions, subject to the provisions contained in sub-section (2).

(2) On the vesting of the Power Station in the Corporation under section 5, the Corporation shall, save as otherwise provided, absorb the employees of the Board working in the Power Station, in the following manner :—

(a) Subject to the provisions of clauses (b) and (c) of this sub-section and sub-sections (3) and (4), all the employees on the regular rolls of the Power Station shall be absorbed in the services of the Corporation who may, with a view to achieving better productivity and efficiency, redeploy them in Talcher Super Thermal Power Project or in any other Project or Power Station belonging to them and such employees absorbed in the services of the Corporation shall be governed by the Rules and Regulations of the Corporation in force from time to time.

(b) Officers in the rank of Executive Engineer and above, whatever designation they hold, shall be retained by the Board for deployment in other activities of the Board or the State Government.

(c) Officers in the rank of Assistant Engineer, whatever designation they hold, shall be kept on deputation with the Corporation, and their absorption in the Corporation or repatriation to the Board or the State Government shall be regulated in the following manner :—

(i) twenty-five per centum of them shall be absorbed, in order of their suitability as may be determined by the Corporation, during the first year of vesting of the Power Station in the Corporation ;

(ii) twenty-five per centum of them shall be repatriated to the Board during the first year of such vesting for redeployment in the Board or under the State Government Departments ;

(iii) further twenty-five per centum of them shall be absorbed in order of their suitability as may be determined by the Corporation, during the second and third years of such vesting (that is 15% in second year and 10% in the third year) ;

(iv) the remaining twenty-five per centum of the officers shall be repatriated to the Board during the second and third years of such vesting for redeployment in the Board or under the State Government Departments.

(3) All Stipendiary Engineers in employment in the Power Station immediately before the appointed day, shall be retained by the Board.

(4) Notwithstanding anything in the preceding sub-sections, employees appointed, if any, in the Power Station after the 11th October 1994 shall be retained by the Board.

Terms and
Conditions
of service of
employees of
Power Sta-
tion not to
be varied to
their disad-
vantage.

11. (1) Every employee of the Power Station absorbed in the Corporation shall hold office or render service under the Corporation on the same terms and conditions and with the same rights and privileges as to pension, gratuity, leave and other matters, as would have been applicable to him immediately before such vesting, till his employment under the Corporation is duly terminated or until his remuneration and other conditions of service as a package are duly altered by the Corporation to his advantage.

(2) The financial liabilities of the Board in relation to the employees absorbed by the Corporation on account of the matters referred to in sub-section (1) for the services rendered under the Board shall be computed till the date immediately preceding the date of vesting of the Power Station with the Corporation and the amount shall be paid to the Corporation as soon as the employees are absorbed.

Reversion of deputationists.

12. Any person who was on deputation to the Power Station from any other organisation immediately before the appointed day shall, on that day, be deemed to have been reverted to his parent organisation.

Status of employees of Power Station on its vesting with the Corporation.

13. Any person referred to in sub-clauses (i), (ii), (iii) and (iv) of clause (c) of sub-section (2) of section 10 shall, on the date of vesting of the Power Station with the Corporation, be deemed to be on deputation with the Corporation on the same terms and conditions of service as were applicable to him before such vesting, until he is absorbed in the service of the Corporation or repatriated to the Board, as the case may be.

Employees not be entitled to compensation.

14. Notwithstanding anything contained in the Industrial Disputes Act, 1947 or ^{14 of 1947.} in any other law for the time being in force, the transfer of the services of any employee of the Power Station to the Corporation shall not entitle him to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Transfer of provident fund money to the Corporation.

15. Where the Board has established a provident fund or any other fund for the benefit of the persons employed by it in the Power Station, the moneys relating to the employees who are absorbed by or under this Act in the Corporation, standing on the appointed day to the credit of such funds, shall, on the date of vesting of the Power Station in the Corporation, stand transferred to the Corporation.

CHAPTER VI

DETERMINATION OF PAYMENT BY THE STATE GOVERNMENT

Appointment of Commissioner.

16. (1) The State Government shall, for the purposes of determining the amount payable to the Board for acquisition of the Power Station by the State Government and for its disbursement, appoint, by notification, a Commissioner of Payments.

(2) The State Government may appoint such other persons as it may think fit to assist the Commissioner.

Determination of compensation.

17. (1) The Commissioner shall, so far as may be within six months from the date of the notification under Section 16, determine the amount payable by the State Government to the Board for acquisition of the Power Station.

(2) In determining such amount, the Commissioner shall take into consideration the value of all assets and properties, pertaining to the Power Station as have vested in the State Government under Section 3, and such other matters as may be relevant for the purpose.

(3) The amount so determined shall be intimated by the Commissioner to the State Government, whereupon the State Government shall, after deducting the amount owed to it by the Board, make available the balance amount to the Board.

CHAPTER VII

MISCELLANEOUS

Overriding effect of the Act.

18. 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.

Penalties.

19. Any person who—

- (a) having in his possession, custody or control any property forming part of the Power Station wrongfully withholds such property from the Corporation; or
- (b) wrongfully obtains possession of, or retains, any property forming part of the Power Station; or

- (c) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the Power Station which may be in his possession, custody or control ; or
- (d) fails to deliver to the Corporation or any person or body of persons specified by the Corporation, any assets, books of accounts, registers or other documents in his possession, custody or control relating to the Power Station,

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

Offence by
the Board
or a
Company.

20. (1) Where an offence punishable under Section 19 has been committed by the Board or a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the Board or company, as the case may be, for the conduct of its business as well as the Board or the company, as the case may be, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where any offence under Section 19 has been committed by a company and it is proved that the offence was 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 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.

21. No suit, prosecution or other legal proceedings shall lie against the State Government or any person, for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Power to
make rules.

22. (1) The State Government may, by notification, make rules, for carrying out the purposes of this Act.

(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 detailed manner, if any, in which the amount is to be paid under sub-section (1) or sub-section (2) of Section 8;
- (b) the manner in which the moneys in any provident fund or other fund referred to in Section 15 shall be dealt with for the purpose of that Section;
- (c) any other matter as may be considered expedient to be provided.

Power to
remove
difficulties.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions, not effecting the substance of this Act, as appears to it to be necessary or expedient for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of the period of two years from the commencement of this Act.

(3) Every order made under sub-section (1) shall be laid as soon as may be, before the State Legislature and the provisions of the Orissa General Clauses Act, Orissa Act 1937 shall apply as they apply in respect of rules made by the State Government 1 of 1937. under any Orissa Act.

SCHEDULE

(See Section 8)

1. The amount payable by the Corporation as referred to in Section 8 shall be three hundred and fifty-six crore rupees.

2. Such amount shall be paid in the following manner, namely:—

(a) Rupees one hundred crores shall be paid to the State Government of Orissa at the time of vesting the Power Station with the Corporation.

(b) The balance rupees two hundred and fifty-six crores shall be paid as follows:—

(i) by adjustment of the outstanding dues of the Corporation against the Board on account of sale of energy and surcharge for delayed payment, as on the date of vesting of the Power Station with the Corporation ; and

(ii) after such adjustment, the balance amount shall be paid in five consecutive equal annual instalment which shall carry interest liability at the rate of fourteen per centum per annum on the Corporation. The payment of instalments along with the interest shall commence on the expiry of one year from the date of the down payment of rupees one hundred crores as mentioned at (a) above.

In case of non-payment by the Board or its successors, of electricity dues, if any, for more than three months, of any Corporation station, the Corporation shall be entitled to appropriate those dues from the Board against its dues to the State Government after due reconciliation of the Corporation accounts with the Board accounts.