

ORISSA ORDINANCE NO. 5 OF 1980

**THE ORISSA ESSENTIAL SERVICES (MAINTENANCE)
ORDINANCE, 1980**

*[Promulgated by the Governor on the 2nd September 1980],
published in an Extraordinary issue of the Orissa Gazette,
dated the 2nd September 1980]*

AN

ORDINANCE

TO PROVIDE FOR THE MAINTENANCE OF CERTAIN ESSENTIAL
SERVICES AND THE NORMAL LIFE OF THE COMMUNITY IN ORISSA

WHEREAS the Legislature of the State of Orissa is not in
session;

AND WHEREAS the Governor of Orissa is satisfied that
circumstances exist which render it necessary for him to take im-
mediate action to provide for the maintenance of certain essential
services in the State of Orissa in the manner hereinafter appearing ;

AND WHEREAS instructions from the President have been
received to promulgate an Ordinance for the said purpose ;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of Article 213 of the Constitution, the Governor of
Orissa is pleased to make and promulgate the following Ordinance
in the Thirty-first year of the Republic of India :—

Short title,
extent and
commence
ment.

1. (1) This Ordinance may be called the Orissa Essential Services
(Maintenance) Ordinance, 1980.

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force at once.

Definitions

2. (1) In this Ordinance, unless the context otherwise
requires,—

(a) "essential service" means—

(i) any service connected with the supply or distribution
of water and with the maintenance of water works;

(ii) any service connected with the maintenance of
public health and sanitation, including hospitals and
dispensaries;

(iii) any service connected with the production, supply
or distribution of electricity including any service under
the Orissa State Electricity Board constituted under the
Electricity (Supply) Act, 1248 ;

- (iv) any service in connection with the affairs of the State not being a service specified in any of the foregoing sub-clauses which the State Government may, by notification, declare to be an essential service for the purposes of this Ordinance ;
- (v) any other service connected with any matter with respect to which the State Legislature has power to make laws and which the State Government, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hard-ship on the community, may, by notification, declare to be an essential service for the purposes of this Ordinance ;
- (b) "strike means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed, to continue to work or to accept employment and includes—
- (i) unauthorised absence from duty in pursuance of a common understanding among the persons who unauthorisedly absent themselves from duty or under the direction of any other person or persons ;
- (ii) refusal to work overtime where such work is necessary for the maintenance of any essential service ;
- (iii) any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (iv) or sub-clause (v) of clause (a) of sub-section (1) shall be laid before the Legislative Assembly immediately after it is made if it is in session and on the first day of the commencement of the next session of the Assembly, if it is not in session and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of the Legislature, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by the Legislature.

3. (1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do, it may, by general or special Order, prohibit strikes in any essential service specified in the Order.

(2) An Order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the Order.

Power to prohibit strikes in certain employments.

(3) An order made under sub-section (1) shall be in force for six months only, but the State Government may, by a like order, extend it for any period not exceeding six months if it is satisfied that in the public interest, it is necessary or expedient so to do.

(4) Upon the issue of an order under sub-section (1)—

- (a) no person employed in any essential service to which the Order relates shall go or remain on strike; and
- (b) any strike declared or commenced, whether before or after the issue of the order, by persons employed in any such service shall be illegal.

Penalty for illegal strikes.

4. Any person who commences a strike which is illegal under this Ordinance or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for instigation etc.

5. Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of, or does any act preparatory to, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.

Penalty for giving financial aid to illegal strikes.

6. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Power to arrest without warrant.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Ordinance shall be non-bailable and any police officer may arrest without warrant any person who is reasonably suspected of having committed any such offence.

Ordinance to override other laws.

8. The provisions of this Ordinance and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force.

C. M. POONACHA

GOVERNOR OF ORISSA

Dated the 2nd September 1980