

ORISSA ORDINANCE No. 13 OF 1983
THE ORISSA REQUISITIONING OF OMNIBUSES
ORDINANCE, 1983

[Promulgated by the Governor of Orissa on the 7th October 1983, published
in an extraordinary issue of the *Orissa Gazette*, dated the 7th October 1983]

AN

ORDINANCE

TO PROVIDE FOR THE REQUISITIONING OF OMNIBUSES FOR SECURING BETTER AND MORE CO-ORDINATED PASSENGER TRANSPORT SERVICE IN THE STATE AND FOR MATTERS CONNECTED THEREWITH

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

AND WHEREAS the private operators plying their stage carriages and contract carriages in the State have withdrawn their buses with a view to causing difficulties for the passenger traffic services in the State ;

AND WHEREAS the Governor of Orissa is satisfied that circumstances exist to render it necessary for him to take immediate action in the manner hereinafter appearing ;

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

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Orissa Requisitioning of Omnibuses Ordinance, 1983.

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

(3) It shall come into force at once.

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

(a) "competent authority" means any person appointed by the Government, by notification, to perform the functions of the competent authority under this Ordinance within such area as may be specified in the notification ;

(b) "Corporation" means the Orissa State Road Transport Corporation registered under the Road Transport Corporation Act, 1950 ; 64 of 1950

(c) "Government" means the State Government of Orissa ;

(d) "omnibus" has the same meaning as assigned under clause (18-A) of section 2 of the Motor Vehicles Act, 1939 ; and 4 of 1939

(e) "owner" includes where the person in possession of omnibus is a minor the guardian of such minor and in relation to an omnibus which is the subject of a hire-purchase agreement, the person in possession of the vehicle under that agreement.

Power to
requisition
Omnibuses.

3. (1) If in the opinion of the competent authority it is necessary or expedient so to do for providing better and more co-ordinated passenger transport service in the State or to meet any emergency in the maintenance of such service may, by order in writing, requisition any omnibus and may make such further orders as appear to it to be necessary or expedient in connection with the requisition.

(2) After requisition of the omnibus under sub-section (1), the competent authority shall deliver possession of the same to the Corporation to operate the same for the purpose of passenger transport and the Corporation may use and deal with it in such manner as may appear to it to be expedient for the said purpose.

(3) Without prejudice to any powers conferred by this Ordinance any person authorised by a competent authority may enter any premises and inspect any omnibus therein or thereon for the purpose of determining whether, and, if so, in what manner any order under this section should be made in relation to such omnibus or with a view to securing compliance with any order made under this section.

(4) Save as otherwise expressly provided in this Ordinance any requisition made or order issued under the provisions of this Ordinance shall be deemed to have been served on the owner, if it is served on the person having possession or control of the omnibus and on receipt thereof the owner shall comply with the requisition or the order, as the case may be, forthwith.

(5) When any owner or person having possession or control of the omnibus refuses or avoids in any manner to receive the order or cannot be found after using all due and reasonable diligence, or is absent from his residence when the order is sought to be served on him and there is no likelihood of his being found at the residence within a reasonable time, affixture of the requisition or the order, as the case may be, on the outdoor or some other conspicuous part of his residence in presence of two witnesses shall amount to sufficient service of the requisition or the order on the owner.

(6) It shall be competent for the competent authority or the person authorised by him to take possession of the omnibus, the materials and documents connected therewith and remove or cause the same to be removed if the owner or the person having possession or control over the omnibus does not comply with the requisition or order of the competent authority.

(7) While taking possession of an omnibus either under sub-section (4) or sub-section (6), the competent authority or the person authorised by him in that behalf shall make an inventory of the omnibus, materials and documents connected therewith in presence of the owner or the person having possession and control of the omnibus and two witnesses and obtain their signature thereon.

Explanation—Where the owner or the person having possession or control of the omnibus refuses or avoids to be present at the preparation of the inventory or to sign it, such inventory prepared in the presence and under the signature of two witnesses shall be sufficient compliance of this sub-section.

(8) The Corporation shall make all arrangements for garraging, maintenance and repair of every omnibus requisitioned and the cost shall be recoverable from the owner.

Release from
requisition.

4. (1) The competent authority may, at any time release from requisition any omnibus requisitioned under section 3 and shall, as far as possible, restore the omnibus in as good a condition as it was when possession thereof was taken, subject only to the changes caused by reasonable wear and tear.

(2) Where any omnibus is to be released from requisition, the competent authority, may after such enquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing to whom possession of the omnibus shall be given.

(3) The delivery of possession of the requisitioned omnibus to the person specified in the order made under sub-section (1) shall be a full discharge of the Government and the Corporation from all liability in respect of such omnibus and the requisition shall be at an end:

Provided that nothing in this section shall prejudice any rights in respect of the omnibus which any other person may be entitled to by due process of law to enforce against the person to whom the possession of the omnibus is so delivered.

(4) Where the person to whom the possession of any requisitioned omnibus is to be delivered cannot be found and has no legal agent or other person competent to accept delivery on his behalf, the competent authority shall cause a notice declaring that the omnibus is released from requisition to be published in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the omnibus specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the Corporation shall not be liable for any amount or other claims in respect of the Omnibus for any period after the said date.

Determination
of amount.

5. Whenever any Omnibus is requisitioned under section 3 there shall be paid to the owner thereof an amount which shall be determined by the competent authority on the basis of the fares or rates prevailing in the locality for the hire of such Omnibus:

Provided that where the owner of such omnibus is aggrieved by the amount so determined shall make an application to the Government within one month from the date the first payment is due and the State Government after giving him an opportunity of being heard shall determine the amount to be paid to the owner and the amount so determined shall be final.

Payment of
amount.

6. Any amount determined by the competent authority or Government, as the case may be, for requisitioning any omnibus shall be paid to the owner in such manner as the competent authority may by order so determine within the 10th day of the month following the month for which the amount is payable:

Provided that where payment of the amount is delayed beyond the said date interest shall be payable on the amount or part thereof in arrear at the rate of nine per cent per annum from the date of default.

Payment of
dues.

7. (1) The competent authority may direct any owner to make payment of any tax or fee payable in respect of the omnibus under requisition within such date as may be specified in the order.

(2) If the owner fails to pay such tax or fee within the date so specified, it shall be competent for the competent authority to pay and recover the same by deduction from the amount payable to the owner.

Power to
require
information

8. A competent authority may with a view to requisitioning any omnibus or taking any other action with respect thereto in pursuance of the provisions of this Ordinance by order in writing,—

(a) require any person to submit to it within such time or at such interval as may be specified in that order such information or document in his possession relating to the omnibus as may be so specified being information and documents reasonably necessary for carrying into effect provisions in this Ordinance,

(b) direct that the owner or person in charge of the omnibus shall not without the permission of the competent authority dispose of it or remove it from the premises in which it is kept till the expiry of such period as may be specified in the order.

Penalty for
contravention
of orders.

9. If any person contravenes any order made under section 3 or section 8, he shall be punishable with imprisonment with a term which may extend to one year or fine not exceeding one thousand rupees or both.

Delegation of
powers.

10. The powers conferred on the Government shall, under such conditions, if any as may be specified in the direction, shall be exercised also by such officer as may be so specified.

Protection of
action taken.

11. No suit or prosecution or other proceeding shall lie against any person for anything which in good faith done or omitted to be done in pursuance of any order or rules made under this Ordinance and no suit or legal proceeding shall lie against the Government or Corporation for any damage caused or likely to be caused by anything in good faith done or omitted to be done in pursuance of this Ordinance or rules made thereunder.

Power to
make rules.

12. The State Government by notification in the Official Gazette may make rules for carrying out the purposes of this Ordinance.

B. N. PANDE

Dated the 7th October, 1983

GOVERNOR OF ORISSA