

**FUTWAH ISLAMPUR LIGHT RAILWAY LINE
(NATIONALISATION) ACT, 1985**

83 of 1985

[30th December, 1985]

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**FUTWAH ISLAMPUR LIGHT RAILWAY LINE
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An Act to provide for the acquisition, in the public interest, of the undertakings of the Futwah-Islampur Light Railway Company Limited in relation to the Futwah- Islampur Light Railway Line and for matters connected therewith or incidental thereto : Whereas the track and rolling stock of the Futwah-Islampur Light Railway Line owned by the Futwah-Islampur Light Railway Company Limited are in a dilapidated condition ; And whereas the running of trains on the aforesaid line besides being hazardous and uneconomical, is also resulting in heavy loss to the Central Government. And whereas the aforesaid Company is not in a position to make the assets serviceable for public use ; And whereas it is necessary in the public interest to acquire the undertakings of the said Company in relation to the said railway line; Be it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:-

CHAPTER 1

Preliminary

1. Short title :-

This Act may be called the Futwah-Islampur Light Railway Line (Nationalisation) Act, 1985.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "appointed day" means the day on which this Act comes into force;

(b) "Company" means the Futwah-Islampur Light Railway Company Limited, being a company as defined in Companies Act, 1956 and having its registered office at 12, Mission Row, Calcutta;

(c) "notification" means a notification published in the official Gazette;

(d) "undertakings", in relation to the Company, means the Futwah-Islampur Light Railway Line and all other undertakings of that Company relating to that Railway Line ;

(e) words and expressions used herein and not defined but defined in Companies Act, 1956 shall have the meanings respectively assigned to them in that Act.

CHAPTER 2

Acquisition of the undertakings of the Company

3. Transfer to, and vesting in, the Central Government of the undertakings of the Company :-

On the appointed day, the undertakings of the Company and the right, title and interest of the Company in relation to such undertakings shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

4. General effect of vesting :-

(1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, cheques, demand drafts, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under Section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2), or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts payable under section 6 and Section 7 to the Company, but no such mortgage, charge, lien or other interest shall be enforceable

against any property which has vested in the Central Government.

(4) Any licence or other instrument granted to the Company in relation to any undertaking which has vested in the Central Government under Section 3 at any time before the appointed day and in force immediately before that day shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking, and, on and from the date of vesting of such undertaking under Section 3 in the Central Government, that Government shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to that Government and that Government shall hold it for the remainder of the period for which the Company would have held it under the terms thereof.

5. Owners of the Company to be liable for certain prior liabilities :-

(1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government.

(2) For the removal of doubts, it is hereby declared that,-

(a) no liability of the Company in relation to its undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company passed on or after the appointed day, in respect of any matter, claim or dispute, which arose before that day, shall be enforceable against the Central Government ;

(c) no liability incurred by the Company before the appointed day, for the contravention of any provision of any law for the time being in force, shall be enforceable against the Central Government.

CHAPTER 3

Payment of Amount

6. Payment of amount :-

(1) For the transfer to, and vesting in, the Central Government, under Section 3 , of the right, title and interest of the Company in relation to its undertakings, there shall be paid in cash by the Central Government, before the expiry of a period of three months

from the appointed day to the Company, an amount equal to a sum of nineteen lakhs twenty-nine thousand five hundred and forty-two rupees.

(2) Notwithstanding anything contained in sub-section (1), out of the amount referred to in that sub-section, the Central Government shall deduct, in the first instance, any amount due from the Company to that Government and the State Bank of Travancore constituted under S.3 of the State Bank of India (Subsidiary Banks) Act, 1959 and the liability of that Company shall, to the extent of such deductions, stand discharged and such deductions shall have priority over all other debts, secured or unsecured.

7. Interest :-

The amount referred to in sub-section (1) of Section 6 as reduced by the deductions under sub-section (2) of that section, shall, if not paid to the Company before the expiry of the period specified in the said sub-section (1), carry simple interest at the rate of four per cent, per annum for the period commencing on the appointed day and ending on the date on which payment of such amount as so reduced is made by the Central Government to the Company: Provided that if the amount as so reduced is tendered to the Company but not accepted by it, no interest shall run from the date of such tender.

CHAPTER 4

Duty of persons in charge of management of the undertakings of the Company to deliver all assets etc.

8. Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc :-

On the vesting of the undertakings of the Company in the Central Government, all persons in charge of the management of undertakings immediately before such vesting, shall be bound to deliver to the Central Government all assets, books of account, registers or other documents in their custody relating to the undertakings.

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

(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 undertakings owned by the Company which have vested in the Central Government and which belong to the

Company, or would have so belonged, if the undertakings owned by the Company had not vested in the Central Government, shall be liable to account for the said assets, books, documents and other papers to the Central Government and shall deliver them up to the Central Government or to such person or persons as the Central Government may specify in this behalf.

(2) The Central Government may take or cause to be taken all necessary steps for securing possession of the undertakings of the Company which have vested in the Central Government under this Act.

(3) The Company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the undertakings which have vested in the Central Government under Section 3 and, for this purpose, the Central Government shall afford to the Company all reasonable facilities.

CHAPTER 5

Provisions relating to employees of the undertakings of the Company

10. Employment of certain employees to continue :-

(1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of the Company shall become, on and from the appointed day, an employee of the Central Government and shall hold office or service under the Central Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and, shall continue to do so unless and until his employment under the Central Government is duly terminated or until remuneration and other conditions of service are duly altered by the Central Government : Provided that unless any extension of service is granted to such person after the appointed day in accordance with the rules in that behalf in force for the time being, such person shall retire compulsorily from the service of the Central Government,-

(a) where he has attained or attains the age of fifty-eight years before, or on, or within a period of three months from, the appointed day, on the date of expiry of the said period of three months, or on the date on which he shall retire compulsorily from service in accordance with the conditions of service applicable to

him immediately before the appointed day, whichever date is earlier;

(b) in any other case, on his attaining the age of fifty-eight years.

(2) Notwithstanding anything contained in Industrial Disputes Act, 1947 , or in any other law for the time being in force, the transfer of the service of any officer or other person employed in any undertaking of the Company to the Central Government shall not entitle such officer or other employee 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.

11. Provident fund and other funds :-

(1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the monies relatable to the officers or other employees whose services have become transferred, by or under this Act, to the Central Government, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and shall vest in the Central Government.

(2) The monies which stand transferred under sub-section (1) to the Central Government shall be dealt with by that Government in such manner as may be prescribed by rules.

CHAPTER 6

Miscellaneous

12. Act to have overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or 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.

13. Penalties :-

Any person who,-

(a) having in his possession, custody or control any property forming part of the undertakings of the Company, wrongfully withholds such property from the Central Government ; or

(b) wrongfully obtains possession of, or retains, any property forming part of the undertakings of the Company; or

(c) wilfully withholds or fails to furnish to the Central Government or any person or persons specified by that Government any document relating to such undertakings, which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or any person or persons specified by that Government, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Company; or

(e) wrongfully removes or destroys any property forming part of the undertakings of the Company or prefers any claim which he knows or has reason to believe to be false or grossly inaccurate, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

14. Offences by Companies :-

(1) Where 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, and was responsible to, the company for the conduct of the business of 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, if he proves that the offence was committed without his knowledge or 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 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 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. NOTES Partner of a firm, not in overall control of the day-to-day business

of the firm held, not liable under S. 34 for offences under the Act.- A person "in charge of" and "responsible to the company for the conduct of the business of the company", contemplated in S. 34(1) of Drugs and Cosmetics Act must be a person in overall control of the day-to-day business of the company or firm. If a partner of a firm is not in such overall control he cannot be liable to be convicted merely because he had the right to participate in the business of the firm under the terms of the partnership deed. State of Karnataka v. Pratap Chand, (1981) 2 SCC 335: 1981 SCC (Cri) 453 : AIR 1981 SC 872 : (1981) 3 SCR 200 : 1981 Cri LJ 595 : 1982 MLJ (Cri) 164. G. L. Gupta v. D. H. Mehta, (1971) 3 SCC 189 : 1971 SCC (Cri) 279, followed. Extent of liability of the accused has to be established by evidence during trial.-Magistrate finding that allegations made in the complaint made out a prima facie offence and that all the accused partners, being responsible for carrying on business of the partnership firm, prima facie committed the offence and therefore, taking cognizance of the offence and issuing process against all the accused-Held, High Court erred in holding that some of the accused were not responsible for the management and conduct of the firm and on that basis in quashing the proceeding against the accused. Drugs Inspector v. B. K. Krishnaiah, (1981) 2 SCC 454 : 1981 SCC (Cri) 487 : AIR 1981 SC 1164.

15. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer or other employee of that Government or any officer or other person authorised by that Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or any officer or other person authorised by that Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

16. Delegation of powers :-

(1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section and section 17 and Section 18 , may also be exercised by such person or persons as may be

specified in the said notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

17. Power to make rules :-

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide the manner in which the monies in any provident fund or other fund under Section 11 shall be dealt with.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of the this Act, remove the difficulty : Provided that no such order shall be made after the expiry of a period of two years from the appointed day.