THE TAMIL NADU PUBLIC WORKS ENGINEERING CORPORATION LIMITED (ACQUISITION AND MISCELLANEOUS PROVISIONS) ACT, 1980.

TAMIL NADU ACT NO. 43 OF 1980

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THE TAMIL NADU PUBLIC WORKS ENGINEERING CORPORATION LIMITED (ACQUISITION AND MISCELLANEOUS PROVISIONS) ACT, 1980.

TAMIL NADU ACT NO. 43 OF 1980

[25th November 1980]

An Act to provide fur the acquisition and transfer of the right, title and interest of the undertaking of the Tamil Nadu Public Works Engineering Corporation Limited and for matters connected therewith.

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-First Year of the Republic of India as follows :--

CHAPTER I

PRILIMINARY

1. Short Title and commencement.— (1) This Act may be called the Tamil Nadu Public Works Engineering Corporation Limited (acquisition and miscellaneous provisions)Act, 1980.

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

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

(a) "appointed day" means the date appointed by the Government under sub-section (2) of section 1 ; (b) "Company" means the Tamil Nadu Public Works Engineering Corporation Limited, being a company incorporated under the Companies Act, 1956 (Central Act 1 of 1356), having its registered office in this State;

(c) "Government" means the State Government ;

(d)"Undertaking" means an undertaking of the Company carrying on the activities with a view to achieve & objects specified in Clause III of the Memorandum of Association of the Company.

CHAPTER II

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ACQUISITION AND TRANSFER OF THE UNDERTAKINGS OF THE COMPANY.

3. Transfer to and vesting in the 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 its undertakings, shall, by virtue of this Act, be transferred to, and shall vest absolutely in, the Government.

4. General effect of vesting.— (1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities of vesting. and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash in hand, reserve funds, investments, book debts and other rights and interests in, or arising out of, such property, were immediately before the appointed day in the ownership, possession, power or control of the Company, 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 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 it, and any attachment, injunction or decree or order of any court or tribunal restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any license or other instrument in relation to the undertaking had been granted at any time before the appointed day to the company by the Central Government or a State Government or any other authority, the Government shall, on and from such date, be deemed to be substituted in such license or other instrument in place of the Company referred to therein as if such license or other instrument had been granted to then, and shall hold such licence or other instrument for the remainder of the period for which the company would have held PUC~ licence or other instrument.

(4) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to .any matter specified in section 5 in respect of the undertaking instituted or preferred by or against, the Company, pending, the same shall not abate, be discontinued or be, in any way prejudicially affected by reason of the transfer of the undertaking or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Government.

5. Assumption of Liability.— Every liability including any liability arising in respect of

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(a) loans advanced by the Central Government, or a State Government, or both, to the undertaking (together with interest due thereof) prior to the appointed day; and (b) wages, salaries and other dues of the employees of the undertaking , in respect of any period before the appointed day, shall, on and from the appointed day, be the liability of the Government and shall be discharged by the Government as and when repayment of such loans or amounts become due or as and when such wages, salaries or other dues become due and payable.

6. Payment of amount.— (1) The Government shall give, in cash, to the Company an amount equivalent to the sum of rupees sixteen lakhs sixty thousand nine hundred and sixty-six only for the transfer to, and vesting in, the Government, under section 3 of the undertakings of the Company.

(2) The amount referred to in sub- section (I), shall be paid within six months from the appointed day.

CHAPTER III

MANAGEMENT, ETC., OF THE UNDERTAKING

7. Management etc., of the undertaking.— On and, from the appointed day, the affairs and business of the undertaking shall be administered by the Government.

8. Duty of persons in-charge of management of the undertaking to deliver all assets, etc.— On the vesting of the undertaking in the Government all persons in-charge of the management of such undertaking immediately before such vesting shall be bound to deliver to the Government all assets ,books of account, registers or other documents in their custody relating to the undertaking.

CHAPTER IV

PERSONS RELATING TO EMPLOYEES OF THE UNDERTAKING

9. Transfer of officers and other employees to the Government.— (1) Every officer or other employee who has been, immediately before the appointed day, employee by the Company in relation to its undertakings, shall become, on and from the appointed day, an employee of the Government, and shall hold office or service under the Government with the same remuneration and upon the same terms and conditions, 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

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vesting and shall continue to do so unless and until his employment under the Government is duly terminated or until his remuneration, terms and conditions of service are duly altered by the Government :

Provided that, if the alteration so made is not acceptable to any such officer or other employee, his employment may be terminated by the Government on payment to him of an amount equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that, nothing contained in this sub-section shall apply to any officer or other employee who has by notice in writing given to the Government within thirty days next following the appointed day intimated his intention of not becoming an officer or other employee of the Government.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act XI' of 1947) or in any other law for the time being in force, the transfer of the services of any officer or other employee, employed in the undertaking to the Government shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

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

(2) The monies which stand transferred, under subsection (I), to the Government shall be dealt with by Government in such manner as may be prescribed.

CHAPTER V

MISCELLANEOUS

11. Act to override all other enactments.— 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 authority.

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12. Contracts to cease to have effect unless ratified by Government. — (1) Every contract entered into by the undertaking for any service, sale or supply and in force immediately before the appointed day shall, on and from the expiry of one hundred and eighty days from such date cease to have effect unless such contract is, before the expiry of the period, ratified, in writing, by the Government and in ratifying such contract the Government may, make such alterations or modifications therein as it may think fit :

Provided that the Government shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the undertaking.

(2) The Government shall not omit to ratify a contract, and, shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

13. Penalties.— Any person who,-

(a) having in his possession, custody or control any property forming part of the undertaking, wrongfully withholds such property from the Government or any person authorised by the Government in this behalf, or

(b) wrongfully obtains possession of, or retains any property forming part of the undertaking or willfully withholds or fails to furnish to the Government, or any person specified by the Government, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the Government or any person specified by the Government any assets, books of account, registers or other documents in his custody relating to the undertaking, or Penalties.

(c) wrongfully removes or destroys any property forming part of the undertaking or prefers any claim under this Act 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 of 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 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 subsection (I), 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 a 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.

15. Protection of action taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or to be done under this Act.

16. Delegation of powers.— (1) The Government may, by notification, direct that all or any of the powers exercisable by it, under this Act, other than the power under section 17 may also be exercisable by any person or persons as may be specified in the notification.

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

17. Power to make rules.— (1) The Government may make rules to carry out the provisions cf 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:-

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(a) the manner in which monies in any provident or other fund referred to in section 10 shall be dealt with;

(b) any other matter which is required to be, or may be prescribed.

(3) All rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued under this Act shall, as soon as possible, after it is mace or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both. Houses agree in making any modification in any such rule by notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 or notification.

18. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order not inconsistent with the provisions of 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.

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