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PART III—Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 253-L.—11th February, 1994.—The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information:—

West Bengal Act XVIII of 1993

**THE GANGES PRINTING INK FACTORY LIMITED
(ACQUISITION AND TRANSFER OF ASSETS)
ACT, 1993.**

[*Passed by the West Bengal Legislature.*]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 11th February, 1994.]

An Act to provide for the acquisition and transfer, in the public interest, of the assets of the Ganges Printing Ink Factory Limited, and for matters connected therewith or incidental thereto.

WHEREAS the Ganges Printing Ink Factory Limited had been engaged in the manufacture of quality printing ink;

AND WHEREAS an order has been made for the winding up of the Company and proceedings for its liquidation are pending in the High Court at Calcutta;

The Ganges Printing Ink Factory Limited (Acquisition and Transfer of Assets) Act, 1993.

(Sections 1-4.)

AND WHEREAS for the purpose of utilising the production facilities and equipment of the Company with a view to increasing the production of printing ink and generating employment in the interest of the general public, it is necessary to acquire the assets of the Company;

IT IS HEREBY enacted in the Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the Ganges Printing Ink Factory Limited (Acquisition and Transfer of Assets) Act, 1993.

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

Definitions.

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

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

(b) "assets of the Company" includes all property, movable and immovable, including lands, factory sheds, office buildings, plant and machinery, equipments, furniture and fixtures, electrical installations and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, power or control of the Company within West Bengal;

(c) "Company" means the Ganges Printing Ink Factory Limited, being a Company as defined in the Companies Act, 1956, and having its registered office at 8, Netaji Subhas Road, Calcutta;

1 of 1956.

(d) "existing Government Company" means a Government Company which is carrying on business on the appointed day;

(e) "Joint Sector Company" means a Company, by whatever name called, formed and registered under the Companies Act, 1956, on or after the appointed day;

(f) "notification" means a notification published in the *Official Gazette*;

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

Transfer to, and vesting in, State Government of the assets of the Company.

3. On the appointed day, the assets of the Company, and right, title and interest of the Company in relation to its assets, shall, by virtue of this Act, stand transferred to, and vest in, the State Government.

General effect of vesting.

4. (1) All assets which have vested in the State Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment, injunction or any decree or order of any court restricting the use of such assets in any manner shall be deemed to have been withdrawn.

(2) Every liability of the owner, agent, manager or managing contractor of the Company, in respect of any period prior to the appointed day, shall be the liability of such owner, agent, manager or managing contractor, as the case may be, and shall be enforceable against him and not against the State Government or the existing Government Company.

Explanations.—For the purposes of this sub-section,—

(a) "owner", when used in relation to the Company, and "agent" shall have the meanings respectively assigned to them in section 2 of the Mines Act, 1952, the provisions of which shall apply *mutatis mutandis*;

35 of 1952.

(b) "managing contractor" shall have the meaning assigned to it in section 2 of the Coal Mines (Nationalisation) Act, 1973, the provisions of which shall apply *mutatis mutandis*.

26 of 1973.

*The Ganges Printing Ink Factory Limited (Acquisition and
Transfer of Assets) Act, 1993.*

(Sections 5-7.)

Power of State Government to direct vesting of the assets of the Company in an existing Government Company.

5. (1) Notwithstanding anything contained in section 3, the State Government may, if it is satisfied that an existing Government Company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the assets of the Company, and the right, title and interest of the Company in relation to its assets which have vested in the State Government under section 3, shall, instead of continuing to vest in the State Government, vest in that existing Government Company either on the date of publication of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its assets vest under sub-section (1) in an existing Government Company, on and from the date of such vesting,—

- (a) that existing Government Company shall be deemed to have become, and shall be deemed to be, the owner in relation to such assets, and
- (b) the rights and liabilities of the State Government in relation to such assets shall be deemed to have become, and shall be deemed to be, the rights and liabilities, respectively, of that existing Government Company.

(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the State Government may utilise the assets of the Company in such manner and for such purpose as it may deem fit, if it is satisfied that such utilisation of the assets of the Company shall increase the production facilities of the Company and shall generate employment in the interest of the general public.

Payment of amount.

6. (1) The State Government shall, within sixty days from the appointed day, pay, in cash, to the Official Liquidator of the Company, an amount equal to the sum of rupees eighteen lakhs seventy-six thousand seven hundred and six for payment to the Company for the transfer to, and vesting in, the State Government, under section 3, of the assets of the Company.

(2) For the avoidance of doubts, it is hereby declared that the liabilities of the Company in relation to the assets which have vested in the State Government under section 3, shall be met from the amount referred to in sub-section (1).

(3) Every person having a claim to the amount as aforesaid or any part thereof shall prefer such claim before the Official Liquidator within such period as the High Court at Calcutta may specify and the amount may be disbursed in accordance with such order or direction as may be made or issued by the High Court.

Management etc. of the assets of the Company.

7. (1) The general superintendence, direction, control and management of the assets of the Company, the right, title and interest in relation to which have vested in the State Government under section 3, shall, when a direction has been given by the State Government under sub-section (1) of section 5, vest, on and from the date specified in such direction, in the existing Government Company specified therein, and thereupon the existing Government Company so specified shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its assets.

(2) Notwithstanding anything contained in sub-section (1), the existing Government Company as aforesaid may, on such terms and conditions as it may determine and with the prior approval of the State Government, nominate, for management of the assets, any co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983, and thereupon such co-operative society shall carry on the management on behalf of the existing Government Company in accordance with such regulations as may be made by the State Government in this behalf.

*The Ganges Printing Ink Factory Limited (Acquisition and
Transfer of Assets) Act, 1993.*

(Sections 8-12.)

Transfer of the
assets of the
Company from an
existing
Government
Company to a Joint
Sector Company.

8. (1) Notwithstanding anything contained in sections 3 and 7, where the assets of the Company have been directed under sub-section (1) of section 5 to vest in an existing Government Company, the State Government may, if it is satisfied that a Joint Sector Company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, declare, by notification, that the assets of the Company be transferred to that Joint Sector Company, and on the issue of such declaration, the right, title and interest of the Company in relation to its assets which had been directed under sub-section (1) of section 5 to vest in an existing Government Company, shall, instead of continuing to vest in that existing Government Company, vest in that Joint Sector Company with effect from the date on which such declaration is made.

(2) Where the right, title and interest of the existing Government Company in relation to the assets of the Company vest under sub-section (1) in a Joint Sector Company, that Joint Sector Company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such assets and all the rights and liabilities of the existing Government Company in relation to such assets shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of that Joint Sector Company.

(3) Upon the vesting of the right, title and interest of the Company in relation to its assets in a Joint Sector Company under sub-section (1), that Joint Sector Company shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the Company is authorised to exercise and do in relation to its assets.

Duty to deliver
possession of the
assets.

9. (1) Notwithstanding any decree, judgement or order of any court or anything contained in any other law for the time being in force, the Official Liquidator or any other person, in whose possession or custody or under whose control the assets of the Company (which have vested in the State Government or in any existing Government Company, or the right, title and interest in relation to which have vested in any Joint Sector Company, under this Act) or any part thereof may be, shall deliver possession of the assets of the Company or such part thereof as may be in his possession, custody or control to the State Government or the existing Government Company or the Joint Sector Company, as the case may be.

(2) The State Government or the existing Government Company or the Joint Sector Company may take, or cause to be taken, all necessary steps for securing the possession of the assets which have vested in the State Government or the existing Government Company or the Joint Sector Company under this Act.

Act to have
overriding effect.

10. 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.

Protection of action
taken in good faith.

11. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of that Government or the existing Government Company or the Joint Sector Company for anything which is in good faith done or intended to be done under this Act.

Power to make
regulations.

12. (1) The State Government may, by notification, make regulations with regard to the matter specified in sub-section (2) of section 7.

(2) Every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, 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, the State Legislature agrees in making any modifications in the regulation or the State Legislature agrees that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be

*The Ganges Printing Ink Factory Limited (Acquisition and
Transfer of Assets) Act, 1993.*

(Section 13.)

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 regulation.

Power to remove
difficulties.

13. If any difficulty arises in giving effect to the provisions of this Act, the State 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 date of publication of this Act in the *Official Gazette*.

By order of the Governor,
S. K. PHAUJDAR,
Secy. to the Govt. of West Bengal.