

West Bengal Act LIV of 1976

THE CALCUTTA TRAMWAYS COMPANY (ACQUISITION OF UNDERTAKING) ACT, 1976.

West Ben. Act LXXIII of 1978.

[6th January, 1979.]

*An Act to provide for the acquisition of the undertaking of the
Calcutta Tramways Company Limited.*

AMKNDhD **W**hgi-as it is expedient to provide for the acquisition of the undertaking of the Calcutta Tramways Company Limited for the purpose of ensuring better transport facilities to the members of the public and for mailers connected therewith or incidental thereto;

It is hereby enacted in the Twenty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:-ô

1. This Act may be called the Calcutta Tramways Company Short title (Acquisition of Undertaking) Act, 1976.

2. In this Act, unless the context otherwise requires,ô
- (a) "appointed day" means the 8th day of November, 1976;
 - (b) "Company" means the Calcutta Tramways Company Limited;
 - ~{bb) "new company" means the Government company, formed and registered under the Companies Act, 1956, in pursuance of the provisions of section 5A; ~{bbb) "notification" means a notification published in the *Official Gazette*;
 - (c) "prescribed" means prescribed by rules made under this Act.

3. ¹(I) On and from the appointed day, the undertaking of the Company shall, by virtue of this Act, be transferred to, and vest in, the State Government.

¹(2) Upon the vesting of the undertaking of the Company under subsection (1), the State Government may, for the efficient management and administration of the undertaking of the Company, provide by notification, for the transfer of such undertaking to, and vesting thereof in, the new company with effect from such date as may be specified in the notification.

Definitions

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Undertaking of the Company to vest in the State Government

¹Section 3 was renumbered as sub-section (I) or initial section and after sub-section (I) as

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(Section 4.)

4. (1) The undertaking of the Company shall be deemed to include the properties, cash balances, reserve funds and other assets of the Company including lands, buildings, works, machinery, plants, rolling stocks, lines, mains, motors, dynamos, switch-boards, apparatus, tools, implements, motor trucks and other like property which may be in the ownership, possession, custody or control of the Company in relation to its undertaking, immediately before the appointed day and all books of accounts, registers and all other documents of whatever nature relating thereto.

Explanation. For the avoidance of doubts, it is hereby declared that the expression "undertaking of the Company" does not include

- (a) any debt due to the Company; and
- (b) any amount recoverable by the Company from its shareholders or directors.

(2) All properties included as aforesaid in the undertaking of the Company which has vested in the State Government [under subsection (1) of section 3] shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges and other encumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of any such property in any manner shall be deemed to have been withdrawn.

(3) Any contract, whether express or implied, or other arrangement whether under any statute or otherwise, in so far as it relates to the affairs of the Company in relation to its undertaking and in force immediately before the appointed day shall be deemed to have terminated on the appointed day.

(4) If on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any business of the undertaking of the Company is pending by or against the Company, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertaking of the Company or of anything contained in this Act and the suit, appeal or other proceeding may be continued, proceeded with and enforced by or against the Company.

(5) Every person in whose possession or custody or under whose control the undertaking of the Company or any part of it may be, immediately before the appointed day, shall, on the appointed day, deliver the possession of the said undertaking or part thereof to the State Government or to such person as may be specified by the State Government in this behalf.

The words, figures and brackets within the square brackets were substituted for the words and figure "under section 3" by s. 4(a) of the Calcutta Tramways Company (Acquisition of Undertaking) Amendment Act, 1978 (W.M. No. 11 of 1978).

(Sections 5, JA tt 6.)

(6) The State Government may take, or cause to be taken, all necessary steps for securing the possession of the undertaking of the Company which has vested in it [under sub-section (1) of section 3.]

5. The undertaking of the Company which has vested in the State Management Government [under sub-section (1) of section 3,] shall be managed on behalf of the State Government by such person as may be appointed by the State Government in (his behalf in accordance with such rules as the Company, may be prescribed.

³5A. Before the publication of the notification under sub-section (2) of section 3, there shall be formed and registered a Government company, with the name "The Calcutta Tramways Company (1978) Limited", in accordance with the provisions of the Companies Act, 1956. Formation registration of a new Company.

6. (1) The State Government shall deposit, in cash, in the Court of Payment of the Chief Judge of the City Civil Court, Calcutta, to the credit of the ^{amount}- Company, an amount equal to the sum of rupees two crores and eighteen lakhs for the transfer to, and vesting in, the State Government, ¹[under sub-section (1) of section 31 or the undertaking of the Company.

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

(3) In meeting the liabilities of the Company in relation to its undertaking which has vested in the State Government ⁴[under subsection (1) of section 3,] the Court shall distribute the amount referred to ^K[in sub-section (1) of this section] amongst the creditors of the Company, whether secured or unsecured, in accordance with their rights and interests, and if there is any surplus left after such distribution, amongst the contributors of the Company in accordance with the rights and interests of such contributors,

¹The words, figures and brackets within the square brackets were substituted for the words and figure "under section 3," by s. 4(b) of the Calcutta Tramways Company (Acquisition or Undertaking) (Amendment) Act, 1978 (West Ben. Act LXXI71 or 1978).

²The words, figures and brackets within the square brackets were substituted for the words and figure "under section 3," by s. 5, *ibid*.

³Section 5A was inserted by s. 6, *ibid*.

⁴The words, figures and brackets within the square brackets were substituted for the words and figure "under section 3," by s. 7(a), *ibid*.

^KThe words, figure and brackets within the square brackets were substituted for the words and figure "under section 3," by s. 7(b)(i), *ibid*.

¹The words, figure and brackets within the square brackets were substituted for the words, figure and brackets "in sub-section (1)," by s. 7(b)(ii), *ibid*.

²The words, figures and brackets within the square brackets were substituted for the words and figure "under section 3," by s. 7(c)(i), *ibid*.

³The words, figure and brackets within the square brackets were substituted for the words and figure "under section 3," by s. 7(c)(ii), *ibid*.

(Sections 7, 8.)

Punishable.

7. (i) Any person who

- (a) having in his possession, custody or control any property forming part of the undertaking of the Company, wrongfully withholds such property from the State Government for the new company], or
- (b) wrongfully obtains possession of any property forming part of the undertaking of the Company which has vested in the State Government³[under sub-section (1) of section 3,1 or
- (c) wrongfully withholds or fails to furnish to the State Government³[for the new company] any document in relation to the undertaking of the Company which may be in his possession, custody or control,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the court any property wrongfully withheld or wrongfully obtained or any document wrongfully withheld or not furnished.

(2) No court shall take cognizance of any offence punishable under this section except with the previous sanction of the State Government or of an officer authorised by the State Government in this behalf.

Offences by

8. (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 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 due diligence to prevent the commission of such offence.

Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and if 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,

³The words within the square brackets were inserted by s. 5(i) of the Calcutta Tramways Company (Acquisition of Undertaking) (Amendment) Act 1978 (West Ben. Act LXXIX of 1978).

³The words, figures and brackets within the square brackets were substituted for the words and figure "under section 3." by s. 5(b)(ii), *ibid.*

where 'the' is substituted

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{Sections 9-12.}

... 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.

9. No suit, prosecution or other legal proceeding shall lie against the Protection of State Government [or the new company] or any officer or other employee in connection with the affairs of the undertaking of the Company in good faith, for anything which is in good faith done or intended to be done under this Act.

10. (1) Every person employed in connection with the undertaking of the Company who has been in such employment immediately before the appointed day, shall continue to hold office after the appointed day with the same rights as to pay, leave, pension, gratuity and all other matters, unless and until his employment in such undertaking is terminated or until his remuneration or other terms and conditions of employment are altered by the State Government [or the new company] in accordance with such rules as may be made in this behalf.

14 of 1947.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the service of any employee from the undertaking of the Company to any other post shall not entitle such employee to any compensation under this Act or any other law for the time being in force and no claim for such compensation shall be entertained by any court, tribunal or other authority.

11. The State Government may, by notification, direct that all or any of the powers exercisable by it by or under any of the provisions of this Act may also be exercised by such other persons as may be specified in the notification.

12. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any other laws, judgment, decree or order of any court, tribunal or other authority or in any instrument having effect by virtue of any enactment other than this Act.

The words within [the square brackets] were inserted by s. 9 of the Calcutta Tramways Company (Acquisition of Undertaking) (Amendment) Act, 1978 (West Bengal Act LXXI of 1978).

The words within [the square brackets] were inserted by s. 10 of the Act.

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{Sections 13, 14,}

Power to 13. (1) The State Government may, by notification * * *, make
make rules for carrying out the purposes of 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 matters which may be, or are required to be, prescribed.

Repeal and 14. (1) The Calcutta Tramways Company (Acquisition of Undertaking) Ordinance, 1976, is hereby repealed. on 976¹n

(2) Any rule or order made, any notification issued, anything done or any action taken under the Calcutta Tramways Company (Acquisition of Undertaking) Ordinance, 1976, shall be deemed to have been validly made, issued, done or taken under this Act as if this Act had commenced on the 8th day of November, 1976.

The words "published in the *Official Gazette*" were omitted by s. 14 of the Calcutta Tramways Company (Acquisition of Undertaking) (Amendment) Act, 1978 (West Ben. Act LXXVIII of 1978).

For Statement of Objects and Reasons, the *Calcutta Calcutta Extraordinary*, Part IV of the 25th November, 1976, pages 307Sb-307Sc: for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the

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"Clauses (bb) and (bbb) were inserted by s. 2 of the Calcutta Tramways Company (Acquisition of Undertaking) (Amendment) Ad. 197S (West Hen, Act L.XXI of 197S).