

The Orissa Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1519, CUTTACK, FRIDAY, SEPTEMBER 24, 2010 / ASWINA 2, 1932

LAW DEPARTMENT

NOTIFICATION

The 23rd September, 2010

No.10547/L.-31/2009/I-Legis.—The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 17th September, 2010 is hereby published for general information.

ORISSA ACT 6 OF 2010

THE ORISSA STATE ROADS TOLLS ACT, 2010

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO LEVY AND COLLECTION OF TOLLS FOR USING STATE ROADS INCLUDING BRIDGES ON STATE ROADS AND TO PROVIDE FOR PRIVATE PARTICIPATION IN CONSTRUCTION, DEVELOPMENT, MAINTENANCE AND OPERATION OF SUCH BRIDGES AND ROADS IN THE STATE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Orissa in the Sixty-first Year of the Republic of India, as follows:—

Short title,
extent,
commence-
ment and
application.

1. (1) This Act may be called the Orissa State Roads Tolls Act, 2010.

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

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

(4) It shall apply to every State Road under the control of the State Government including section thereof and every bridge constructed on or across such State Roads as the State Government may, by notification, specify, from time to time.

Definitions.

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

- (a) "bridge" means a permanent structure on State Road of any category providing passage for a road traffic or other moving loads over depression or obstruction such as channel, river, road or railway, as the case may be, and includes road over-bridge, flyover and road under bridge;
- (b) "bypass" means a section of State Road that avoid a city, town or village;
- (c) "Company" means Government Company as defined in section 617 of the Companies Act, 1956;
- (d) "concessionaire" means a person with whom an agreement has been entered into under section 4;
- (e) "Corporation" means a Corporation established by or under a Central Act or State Act, which is controlled or managed by the Central Government or State Government;
- (f) "executing authority" means the State Government or officer of the State Government, Corporation or Company to whom responsibility for making, repairing or improving a State Road or bridge is entrusted by the State Government;
- (g) "mechanical vehicle" means any vehicle driven under its own power including a motor vehicle as defined under the Motor Vehicle Act, 1988;
- (h) "prescribed" means prescribed by rules ;

1 of 1956.

59 of 1988.

- (i) "prescribed authority" means the authority to be notified by the State Government for the purpose of superintending the collection of tolls under this Act;
- (j) "road over bridge" means a section of State Road constructed over a railway or road to facilitate flow of traffic;
- (k) "road under bridge" means a section of State Road constructed under a railway or road to facilitate flow of traffic;
- (l) "rules" means rules made under this Act;
- (m) "State Road" means a continuous length of the whole or part of a State Highway, Major District Road, other District Road or Village Road and includes a bypass but shall not include National Highways as specified in the Schedule to the National Highways Act, 1956;

45 of 1956.

Explanation.—In this clause, the expression—

- (i) "State Highway" means any arterial route of the State linking any district headquarters or important cities within the State and connecting it with a National Highway or Highway of any neighboring State;
- (ii) "Major District Road" means any important roads within a district serving areas of production and markets, and connecting it with another such road or with a Highway;
- (iii) "other District Road" means a road serving any rural area of production and providing it with an outlet to a market centre, Tahasil headquarters, block headquarters or other main road;
- (iv) "Village Road" means a road connecting any village or group of villages with any other village or group of villages and to the nearest road of a higher category.

137

(n) "toll gate" means any building, structure or booth made for collection of tolls; and

(o) "Wholesale Price Index" means Wholesale Price Index as released by the Office of the Economic Advisor, Ministry of Commerce and Industry, Government of India or any index published in substitution thereof, as may be notified in the Official Gazette by the Central Government.

Power to levy
and collect
tolls.

3. (1) The State Government may, by notification, levy toll at such rates as may be laid down by rules made in this behalf on every mechanical vehicle for using any State Road or bridge which has been, or shall hereafter be, made, repaired or improved at the expenses of the Central or State Government or any Corporation or Company.

(2) The State Government may revise the toll rate fixed under sub-section (1) each year linking with the Wholesale Price Index in the manner as may be prescribed.

(3) Such tolls, when so levied, shall be collected in accordance with the rules made under this Act and all persons employed in relation to collection of tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land revenue.

Power of
State
Government
to enter into
agreement
for
development,
construction
and
maintenance
etc. of State
Roads and
bridges.

4. (1) Notwithstanding anything contained in this Act, the State Government may enter into an agreement with any person in relation to construction, development, maintenance and operation of any State Road or bridge.

(2) Notwithstanding anything contained in section 3, the person referred to in sub-section (1) is entitled to collect and retain tolls at such rate, for services or benefits rendered by him, as the State Government may, subject to rules, by notification, specify having regard to the expenditure involved in construction, development, maintenance and operation of the whole or part of such State Road and bridge, interest on the capital invested, reasonable return, the volume of traffic and the period of such agreement.

Recovery of
tolls.

5. (1) When any toll is not paid on demand, the person authorised to collect the same shall seize any mechanical vehicle on which it is chargeable or any goods carried by such mechanical vehicle and if the toll remains unpaid for twenty-four hours with the cost arising from such seizure, the case shall be brought before the prescribed authority.

(2) Where a case is brought before the prescribed authority, he may sell the property seized for discharge of the toll and all expenses incurred for such non-payment, seizure and sale of the property in public auction, and any balance that may remain after such discharge shall be returned, on demand, to the owner of the mechanical vehicle or goods, as the case may be:

Provided that if, at any time before the sale has actually begun, the person whose property has been seized tendered the amount of all the expenses incurred and double the toll payable by him, the property so seized shall, forthwith, be released.

Exemption
from
payment of
tolls.

6. The State Government may exempt such mechanical vehicles as may be prescribed from the levy or payment of tolls.

Assistance
by police
officer.

7. Every police officer shall be bound to assist the person authorised to collect toll, when required, in execution of the provisions of this Act and for that purpose, shall have the same power which they have in the exercise of their ordinary police duties.

Penalty for
unauthorised
collection
and award of
compensation.

8. (1) Every person other than the persons authorised to collect the tolls under this Act, who levies or demands any toll on any State Road or bridge shall, on conviction, be liable for imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Every persons who unlawfully demands or takes any toll at a higher rate than lawfully levied under this Act or seizes or sells any property knowing such seizure or sale to be unlawful or in any manner unlawfully extorts money or any valuable things from any person under the colours of this Act, shall, on conviction, be liable to imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) When a Magistrate imposes sentence of fine or any sentence of which fine forms a part, the Magistrate may, when passing the judgement, order the whole or any part of the fine recovered to be paid to the person for loss or injury caused to him for the unauthorized collection of toll.

(4) No Magistrate shall take cognizance of any offence under this Act except on a complaint in writing made by an officer authorised by the State Government in this behalf.

Complaint for
unauthorised
collection.

9. (1) Any driver, owner or person in charge of a mechanical vehicle aggrieved by unauthorised collection of tolls may lodge a complaint before the prescribed authority who shall, after hearing the parties, pass an order on such complaint for refund of excess payment and damages for the inconvenience suffered by such user.

(2) Any person aggrieved by the order passed under sub-section (1) may, within thirty days of the communication of the order, prefer an appeal to such authority as may be prescribed who shall, after giving reasonable opportunity of being heard to the parties, pass such order as it may deem fit.

Display of
information.

10. The executing authority or the concessionaire, as the case may be, shall display in a conspicuous place near the toll gate legibly written or printed in English and in Oriya Language, the amount of toll payable for each class of mechanical vehicle, the categories of vehicle exempted from payment of toll and the name, address and telephone number or contact number of the executing authority or the concessionaire.

Act to
override
other laws.

11. (1) If any provision contained in any State Act is repugnant to any provision contained in this Act, the provision of this Act shall prevail over the provision contained in any such State Act and such provisions of the State Act shall, to the extent of repugnancy, be void.

(2) Notwithstanding anything contrary contained in the Indian Tolls Act, 1851, as amended from time to time, the provisions of this Act shall have an overriding effect.

Protection of
action taken
in good faith.

12. No prosecution, suit or other legal proceedings shall lie against the executing authority or concessionaire or any person authorised to act by or under this Act for anything done or intended to be done in good faith in pursuance of this Act or rules.

Power to
make rules.

13. (1) The State Government may by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the rate at which toll may be levied, the manner in which such toll shall be collected and the method of revision of tolls under section 3;
- (b) mechanical vehicles to be exempted from levy or payment of tolls under section 6;
- (c) appellate authority under section 9; and
- (d) any other matter for which provision should be made under this Act.

Power to
remove
difficulties.

14. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, publish in the official Gazette, make necessary provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulties:

Provided that no order shall be made under this section after expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Orissa Legislative Assembly.

By Order of the Governor

D. DASH

Principal Secretary to Government

