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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative
NOTIFICATION

No. 410-L.—5th March, 2003.—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 XXXI of 2002

**THE DR. B. C. ROY POST-GRADUATE INSTITUTE OF BASIC MEDICAL
SCIENCES (TAKING OVER OF MANAGEMENT AND SUBSEQUENT
ACQUISITION) ACT, 2002.**

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Kolkata Gazette*,
Extraordinary, of the 5th March, 2003.]

*An Act to provide for the taking over of the management and the subsequent acquisition of the Dr. B. C. Roy
Post-graduate Institute of Basic Medical Sciences.*

WHEREAS it is expedient, in the public interest, to make better provisions for the development, control, management and maintenance of the institution commonly known as the Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences at 244B, A. J. C. Bose Road, Kolkata- 700 020, in the district of Kolkata, with a view to promoting public health and to provide for that purpose for the taking over of the management and the subsequent acquisition of all properties belonging to the said institution for a limited period or held for the benefit thereof;

It is hereby enacted in the Fifty-third 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 Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences (Taking over of Management and Subsequent Acquisition) Act, 2002.

(2) It shall come into force at once.

Definitions.

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

- (a) "appointed day" means the date of publication of the order made under section 3;
- (b) "the institution" means the Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences at 244B, A. J. C. Bose Road, Kolkata-700020, in the district of Kolkata, together with the indoor-beds, if any, and provisions for outdoor services and dispensaries, if any, attached thereto and used in connection therewith and includes all lands and buildings, equipments, lecture rooms, libraries, stores, drugs and other articles held or used in connection with, or as accessories to, or as adjuncts of, the said Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences;
- (c) "notification" means a notification published in the *Official Gazette*;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "Director" means the Director of the Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences appointed under section 7;
- (f) "State Government" means the Government of the State of West Bengal.

*The Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences
(Taking over of Management and Subsequent Acquisition) Act, 2002.*

(Sections 3, 4.)

Taking over of
management of
the institution.

3. (1) The State Government shall, by order published in the *Official Gazette*, take over the management and control of the institution.

(2) An order made under sub-section (1) shall remain in force for a period of five years from the date of its publication in the *Official Gazette* or, in the case of acquisition of the institution under section 4, till the date of such acquisition, whichever is earlier.

Acquisition of
the institution.

4. (1) The State Government may, at any time within the period of five years referred to in sub-section (2) of section 3, acquire the institution by notification.

(2) On and from the date of the notification referred to in sub-section (1) (hereinafter referred to as the date of vesting),—

- (i) the institution shall stand transferred to, and vest absolutely in, the State Government, free from all encumbrances;
- (ii) the institution shall be run by the State Government as a State institution;
- (iii) any contract, whether express or implied, or other arrangement, whether made under any statute or otherwise, in relation to the management of any property or other affairs of the institution, and in force immediately before the date of vesting shall be deemed to have terminated on and from the date of vesting;
- (iv) every person who has been an employee of the institution, in a non-teaching post, before the date of vesting, he shall, on and from the date of vesting, be withdrawn from the institution, and be posted to any other establishment of the University of Calcutta as he may be deemed suitable and expedient. However, every person who has been an employee of the institution, in a teaching post, before the date of vesting, he shall, on and from the date of vesting, be at liberty to exercise an option, to remain under the employment of the University of Calcutta and then he shall be posted to any other establishment of that University subject to his technical, operational and economic feasibility, or to retire voluntarily from the employment of the University of Calcutta, or to become an employee of the State Government on the following terms and conditions of service :—
 - (a) the teaching staff of the institution shall have the option to remain on terms and conditions of the service of the University of Calcutta or to join the corresponding State Services including the West Bengal State Health Services, subject to selection through the Public Service Commission, West Bengal, wherever necessary. Those who opt to remain on the terms and conditions of service of the University of Calcutta, shall be governed by the rules and regulations of the University of Calcutta,
 - (b) the set up of medical teaching posts of the institution, after the date of vesting, shall be subject to reconciliation with the notification of the State Government whereunder different teaching posts have *inter alia* been sanctioned for different departments of the Institute of Post-graduate Medical Education and Research, 224A, A. J. C. Bose Road, Kolkata-700 020. If the number of teaching personnel exceeds the number of sanctioned teaching posts for any department consequent to the absorption of teaching personnel, upon such vesting, the State Government shall reserve the right to transfer such excess teaching personnel to other vacant posts in any other medical teaching institutions under the State Government, irrespective of the fact whether such teaching personnel have opted to remain on the terms and conditions of service of the University of Calcutta or are employed under State Government, whatsoever,
 - (c) the modality of pay fixation of such teaching personnel after the vesting shall be notified in due course,
 - (d) the terms and conditions of the service of employees who have been employed on contract basis shall be maintained provided that the contract is for a short period not exceeding five years in any case. If, however, the case is otherwise, the employee shall enter into a fresh contract with the State Government,
 - (e) a list of all such teaching personnel who have opted to become an employee of the State Government, on whatever terms and conditions they have opted for, shall be forwarded to the office of the Principal Accountant General, West Bengal, and Pay and Accounts Office, Kolkata, along with all service particulars of them;
- (v) notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage, to the contrary, the transfer of the service of any employee of the institution to the service of the State Government shall not entitle such employee to any compensation on any account whatsoever and no claim in this behalf shall be entertained by any court, tribunal or authority.

*The Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences
(Taking over of Management and Subsequent Acquisition) Act, 2002.*

(Sections 5, 6.)

Payment of
compensation.

5. (1) For the transfer to, and vesting in, the State Government of the institution under section 4, the compensation payable by the State Government for the lands and buildings of the institution shall be such as may be determined by the Competent Authority referred to in sub-section (3), applying, *mutatis mutandis*, the provisions of the Land Acquisition Act, 1894, subject to the condition that deduction of all grants and contributions made by the State Government directly or through the Local Bodies to the institution for the purpose prior to the appointed day, and subject to the further condition that the total amount of financial assistance received from the Government, if any, for construction of buildings of the institution prior to the appointed day shall be taken into consideration for determination of the quantum of such compensation. 1 of 1894.

(2) The compensation payable by the State Government for all other assets excepting the lands and buildings referred to in sub-section (1) shall be the market value thereof determined by the Competent Authority referred to in sub-section (3) after deduction of all grants and contributions made by the State Government to the institution specifically for the purpose of creation of such other assets prior to the appointed day.

(3) The Special Land Acquisition Collector, Kolkata shall be the Competent Authority for the purposes of this Act.

(4) Any person aggrieved by the award of the Competent Authority, may appeal to the Appellate Authority within thirty days from the date of the award and the District Judge, 24-Parganas (South) shall be the Appellate Authority for this purpose.

(5) The State Government shall, as soon as possible after the date of the award made by the Competent Authority or after the date of the order of the Appellate Authority in the case of an appeal, as the case may be, pay to the persons, found entitled to, the amount of compensation determined under this section.

(6) The amount of compensation determined under this section shall carry interest at the rate of six per cent per annum with effect from the date of vesting till the date of payment of compensation:

Provided that the rate of interest on the amount of compensation for the lands and buildings referred to in sub-section (1) shall be the same as in the Land Acquisition Act, 1894.

6. (1) The institution shall, so long as it remains under the management of the State Government, be run for the purposes for which it was being run immediately before the appointed day.

(2) The State Government may, at any time before the expiry of the period referred to in sub-section (2) of section 3, by notification make over the management of the institution to the person or persons under whose management the institution was immediately before the appointed day, or to any other person or persons as the State Government may think fit, with effect from such date as may be specified in the notification.

(3) If the management of the institution has not been made over under sub-section (2), the management of the institution shall, on the expiry of the period referred to in sub-section (2) of section 3, revert to the person or persons under whose management the institution was immediately before the appointed day:

Provided that on vesting of the institution in the State Government, the reversion of the management of the institution shall not be necessary.

(4) The Director appointed under section 7 shall cease to function with effect from the date on which the management of the institution is made over under sub-section (2), or is reverted under sub-section (3), as the case may be.

(5) The institution shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable or immovable, including lands, buildings, equipments, lecture rooms, libraries, stores, drugs, cash balances, reserve fund, investments 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 institution and all books of accounts, registers and all other documents of whatever nature.

(6) (a) All persons constituting the Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences at 244B, Acharya Jagadish Chandra Bose Road, Kolkata- 700 020, in the district of Kolkata, entrusted with setting up of the institution and all other persons exercising any power of management in relation to the institution immediately before the appointed day shall be deemed to have vacated their offices and shall cease to exercise such power.

(b) All persons who have in their possession, custody or control any asset or assets of the institution shall forthwith deliver possession of such asset or assets to the Director appointed under section 7 or to such other person as may be authorised by the Director in this behalf.

(7) Every person in charge of the management of the institution immediately before the appointed day shall, within ten days from that day or within such further time as the State Government may allow in this behalf, furnish to the Director a complete inventory of all properties and assets forming part of the institution, and of all liabilities and obligations of the institution subsisting immediately before the appointed day.

(8) The State Government may take, or cause to be taken, all necessary steps for obtaining the possession of the institution.

Effect of taking
over of
management.

*The Dr. B. C. Roy Post-graduate Institute of Basic Medical Sciences
(Taking over of Management and Subsequent Acquisition) Act, 2002.*

(Sections 7-16.)

Appointment of Director.	<p>7. (1) The State Government shall, by order in writing, appoint a Director for managing the institution in accordance with the provisions of this Act and the rules made thereunder.</p> <p>(2) The State Government may appoint one or more person or persons to assist the Director in carrying out his functions under this Act.</p> <p>(3) The terms and conditions of service of the Director and other person or persons, appointed under sub-section (2), shall be such as may be prescribed.</p> <p>(4) Subject to such directions as the State Government may issue, the Director shall have all the powers of setting up of the institution and its management and control.</p>
Penalty.	<p>8. (1) Any person who-</p> <p>(a) having in his possession, custody or control any property belonging to the institution, wrongfully withholds such property from the Director, or</p> <p>(b) wrongfully obtains possession of any property forming part of the institution, or</p> <p>(c) wilfully withholds or fails to produce to any person authorised under this Act, any register, record or other documents which may be in his possession, custody or control, or</p> <p>(d) fails, without any reasonable cause, to submit any accounts, books or other documents, when required to do so,</p> <p>shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.</p> <p>(2) The offence under sub-section (1) shall be cognizable and non-bailable.</p>
Power to defend suits and proceedings.	<p>9. The Director appointed under section 7 shall have the power to institute, defend or take part in, any suit or proceeding by or against the institution.</p>
Delegation of power.	<p>10. The State Government may, by notification, direct that all or any of the powers (except the power to make rules) exercisable by it under this Act may also be exercised by such person and on such terms and conditions as may be specified in the notification.</p>
Protection of action taken under this Act.	<p>11. No suit, prosecution or other legal proceeding shall lie against the State Government or the Director or any other person appointed under section 7 for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.</p>
Advances by the State Government.	<p>12.(1) The State Government may, on the application made by the Director in this behalf, advance moneys for the purpose of developing and efficiently managing the institution, and all other aspects in relation to the establishment of the institution.</p> <p>(2) Any money advanced under sub-section (1) shall, subject to the prior payment of municipal taxes, and any sum due to the Government on account of taxes or fees, be a first charge upon the properties of the institution.</p>
Contracts, agreements, etc. to remain suspended.	<p>13. The State Government may, if it is satisfied that it is necessary or expedient so to do, direct, by notification, that the operation of all contracts, assurances or property, agreements, settlements, awards, standing orders or other instruments in force in relation to the institution immediately before the appointed day shall remain suspended and all rights, privileges, obligations and liabilities accruing or arising thereunder, before the said date shall remain suspended or shall be enforceable with such modifications and in such manner as may be specified in such notification.</p>
Period of limitation.	<p>14. In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in section 13, the period during which it or the remedy for the enforcement thereof was suspended shall be excluded.</p>
Act to have overriding effect.	<p>15. The provisions of this Act or any rule made thereunder 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 other law.</p>
Power to make rules.	<p>16.(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.</p> <p>(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 or made by rules.</p>

By order of the Governor,

A. K. BHATTACHARYA,
Principal Secy. to the Govt. of West Bengal
& Secy., Law Department.