

Audhyogik Kshetra (Apradhikrit Vikas Aur Adhikraman Nivaran) Adhiniyam, 1999 (2002 Ka Adhiniyam Sankhyan 9):-

(Authorised English translation)

THE RIICO INDUSTRIAL AREAS (PREVENTION OF UNAUTHORISED
DEVELOPMENT AND ENCROACHMENT) ACT, 1999
(Act No. 9 of 2002)

(Received the assent of the President on the 6th August, 2002)

An

Act

to vest powers in the Rajasthan State Industrial Development and Investment Corporation Limited for eviction of trespassers and to provide for demolition of unauthorised development in industrial areas and for matters connected therewith.

Be it enacted by the Rajasthan State Legislature in the Fifty second Year of the Republic of India, as follows:-

CHAPTER-I

Preliminary

1. Short title, extent and commencement. - (1) This Act may be called the RIICO Industrial Areas (Prevention of Unauthorised Development and Encroachment) Act, 1999.

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

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

(4) It shall apply to all the land transferred to the Rajasthan State Industrial Development and Investment Corporation Limited by the State Government and land purchased or acquired or otherwise held by the Rajasthan State Industrial Development and Investment Corporation Limited.

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

- (a) '**Board**' means the Board of Directors of the Corporation,
- (b) '**Corporation**' or 'RIICO' means the Rajasthan State Industrial Development and Investment Corporation Limited, constituted under the Companies Act, 1956 (Central Act No. 1 of 1956);
- (c) '**Development**' means the carrying out of projects, structures, buildings, engineering or other operation in or over or under any land or the making of any material change in any project, structure, building or land or its use and includes redevelopment and laying out and sub-division of any land;
- (d) '**Government**' means the Government of Rajasthan;
- (e) '**Occupier**' means a person who occupies a site or building in RIICO industrial areas and includes his successors and assigns;
- (f) '**Plan**' means a plan approved by the Corporation;
- (g) '**Land**' means the land transferred to the corporation by the State Government and the land purchased or acquired or otherwise held by it;
- (h) '**Public street**' means any street development or causes to be developed by the Corporation;
- (i) '**rules**' means the rules made under this Act and
- (j) '**Land Disposal Rules**' means Rajasthan State Industrial Development and Investment Corporation Disposal of Land Rules, 1979 made by the corporation in exercise of the powers conferred by Article 93 (xv) of the Articles of Association of the said Corporation, and as amended from time to time.

CHAPTER-II

Offences and Powers of Corporation

3. Penalty for unauthorised development or for use otherwise than in conformity with the Plans.- (1) Any person who, whether at his own instance or at the instance of any other person commences, undertakes or carries out development of any land, -

- (a) without permission required under the Land Disposal Rules; or
- (b) which is not in accordance with any permission granted or is in contravention of any condition subject to which such permission has been granted; or
- (c) after the permission for development has been duly revoked;

shall, on conviction by a court having jurisdiction, be punished with fine which may extend to five thousand rupees, and in case of a continuing offence with a further fine which may extend to one hundred rupees for every day during which the offence continues after conviction for the first commission of the offence.

(2) Any person who continues to use or allows the use of any land or building in contravention of the provisions of a plan without being allowed to do so under Land Disposal Rules, 1979 or where the continuance of such use has been allowed under the aforesaid rules or the rules made under this Act, continues such use after the period for which such use has been allowed or without complying with the terms and condition under which the continuance of such use is allowed, shall, on conviction by a Court having jurisdiction be punished with fine which may extend to two thousand rupees, and in the case of a continuing offence, with a further fine which may extend to one hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

4. Encroachment or obstruction upon the land. - (1) Whoever makes any encroachment on any land, not being private property, except steps over drain in any public street, shall, on conviction by a Court having jurisdiction, be punished with simple imprisonment which shall not be less than one month but which may extend to one year and with fine which may extend to twenty thousand rupees:

Provided that the court may, for any adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one month.

(2) Whoever makes any obstruction upon any land not being private property, except steps over drain in any public street, shall on conviction by a court having jurisdiction, be punished with simple imprisonment which may extend to one month or with fine which may extend to two thousand rupees or with both.

(3) The Corporation or any officer authorised by it in this behalf shall have power to remove any such obstruction or encroachment and the expenses of removal shall be recovered from the person who has caused the said obstruction or encroachment.

(4) Whoever not being duly authorised in that behalf removes earth, sand or other material from any land shall be punished on conviction by a Court having jurisdiction, with imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both.

(5) Notwithstanding anything to the contrary contained in the foregoing provisions of this section, the Corporation or the officer authorised by it in this behalf shall, in addition to the action taken provided in this section, also have power to seize or attach any property found on

the land referred to in this section or as the case may be, attached to such land or permanently fastened to anything attached to such land.

(6) Where any property is seized or attached by an officer authorised by the Corporation, he shall immediately make a report of such seizure or attachment to such functionary of the Corporation as may be specified in the Land Disposal Rules or the rules made under this Act.

(7) The functionary of the Corporation, as referred to in sub-section (6), may make such orders as he deems fit for the proper custody of the property seized or attached, pending the conclusion of confiscation proceedings, and, if the property is a subject to speedy and natural decay, or it is otherwise expedient so to do, such functionary may order it to be sold or otherwise disposed of.

(8) Where any property is sold as under sub-section (7), the sale proceeds thereof, after deduction of the expenses of such sale and other incidental expenses, if any, relating thereto, shall-

(a) Where no order of confiscation is passed; or

(b) Where an order passed in appeal so requires, be paid to the lessee or occupier thereof or to the person from whom it is seized.

(9) Where any property is seized or attached under sub-section (5), the functionary of the Corporation may order confiscation of such property.

(10) No order for confiscating a property shall be made under sub-section (9) unless the lessee or occupier of such property or the person from whom it is seized or attached is given-

(a) a notice in writing, informing him of the grounds on which it is proposed to confiscate the property;

(b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) a reasonable opportunity of being heard in the matter.

(11) The order of confiscation under sub-section (9) shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

(12) Any person aggrieved by an order made under sub-section (7) or subsection (9) may, within thirty days from the date of communication of such order to him, appeal against it to the District Judge of the District in which such property is seized or attached.

(13) On such appeal being preferred, the District Judge may, after giving an opportunity to the appellant and the respondent to be heard, direct the order to be stayed where necessary pending disposal of the appeal, and either affirm, modify or annul the order of such confiscation and may make any such further orders as he may consider just.

(14) Whenever any property is seized or attached, pending confiscation under this section, notwithstanding anything to the contrary contained in any other law for the time being in force, no civil court, tribunal or other authority shall have jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such property.

(15) Where any person is prosecuted of an offence under sub-section (1) or sub-section (2), the burden of proving that he has not committed the offence shall be on him.

(16) Whoever, being an employee of the Corporation, specifically entrusted with the duty to stop or prevent the encroachment or obstruction punishable under this section, wilfully or knowingly neglects or deliberately omits to stop or prevents such encroachment or obstruction, shall, on conviction by a court having jurisdiction, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees or with both:

Provided that no court shall take cognizance against such employee for the offence punishable under this sub-section except with the previous sanction of the Managing Director of the Corporation.

(17) No investigation of an offence under this section shall be made by an officer below the rank of a Deputy Superintendent of Police.

5. Offence by Companies. (1)

If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge 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 provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2). Notwithstanding anything contained in sub-section (1) where an 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 or, is attributable to any neglect on the part of any Director, Manager,

Secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purpose 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.

6. Power to require removal of unauthorized development. - (1) Where any unauthorized development of land has been carried out as indicated in sub-section (1) of section 3, the Corporation may, subject to the provisions of this section, serve on the lease holder and / or the occupier of the land a notice requiring him within such period, not exceeding one month, as may be specified therein, after the service of the notice, to take such steps as may be specified in the notice—

(a) in cases specified in clause (a) or clause (C) of sub-section (1) of Section 3, to restore the land to its condition existing before the said unauthorized development took place; and (b) in cases specified in clause

(b) of sub-section (1) of section 3 to secure compliance with the conditions or with the permission as granted.

(2) in particular, such notice may, for purpose of sub-section (1) require –

(a) the demolition or alteration of any building or works or carrying out any other operation, or

(b) the discontinuance of any use of land or building or works.

(3) Any person aggrieved by such notice may, within the period specified in the notice and in the manner determined by regulations apply for permission under the Land Disposal Rules or rules made under this Act, for retention of the land or any building or works or for the continuance of any use of the land, to which the notice relates, and pending the final determination or withdrawal of the application, merely serving of a notice in itself shall not affect in any way the retention of building or works or the continuance of such use.

(4) if the permission applied for is granted, the notice shall stand withdrawn; but if the permission applied for is not granted the notice shall stand ; or if such permission is granted for the retention only a part of the land, the notice shall stand withdrawn as respects such buildings or works or such part of the land, shall stand as respects other buildings or works or other parts of the land, as the case may be; and thereupon, the lease holder and / or the occupier shall be required to take steps specified in the notice under sub-section (1) as respects such other buildings, works of part of the land.

(5) If within the period specified in the notice or within the said period after the disposal of the application under sub-section (4), the notice is partially complied with or deemed withdrawn partially, for so much of it as stands not complied with, the Corporation may,-

(a) Prosecute the lease-holder for not complying with the notice and where the notice requires, the discontinuance of any use of land, or to any/other person also who uses the land or causes or permits the land to be used in contravention of the notice;

(b) Where the notice requires the demolition or alteration of any building or works or carrying out of any building or other operations, self cause the restoration of the held to its conditions as it stood before the unauthorized development took place and secure compliance with the conditions of the permissions as modified by taking such steps as the Corporation may consider necessary including demolition or alteration of any building or work or carrying out of any building or other operation; and recover the amount of any expenses incurred by it in this behalf from the lease-holder and/ or the occupier as arrears of land revenue.

(6) Any person prosecuted under clause (1) of sub-section (5) shall, on conviction, be punished with fine which may extend to five thousand rupees; and in the case of a continuing offence, with a further fine which may extends to one hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

7. Removal or discontinuance of unauthorized development summarily.- Notwithstanding anything hereinbefore contained in this chapter, where any person has carried out any development unauthorisedly as indicated in sub-section (1) of section 3, the Corporation may, by an order in writing direct him to remove any structure created or work done or to discontinue the use of land made unauthorisedly as aforesaid, within fifteen days of the receipt of the order, and if thereafter, the person does not comply with the order within the said period the Corporation or any officer authorized by it in this behalf may get such structure or work summarily removed or get such use summarily discontinued without any notice as directed in the order; and any further development unauthorisedly made thereafter shall similarly be summarily removed or discontinued without making any order as aforesaid.

8. Recovery of expenses incurred.- Any expenses incurred by the corporation under the provisions of this Act shall be a sum due to the corporation under this act from the person in default or the lessee or occupier of the land or plot and shall be recovered as arrears of land revenue.

9. Power of the Corporation as to legal matters.- The Corporation may,-

(a) institute, defend or withdraw from any legal proceeding;

(b) compound any offence under this Act; and

(c) admit, compromise or withdraw any claim made in any legal proceeding or otherwise.

10. Power of entry.- (1) Where any case of default or contravention committed or made against the provisions of this Act comes to knowledge of the corporation, any officer of the Corporation authorized in this behalf may, with or without assistants or workmen, enter into or upon any land or building for purposes of,-

(a) making any enquiry, inspection, measurement or survey or taking levels of such land or building;

(b) examining works under construction and ascertaining the course of sewers and drains;

(c) digging or boring into the sub-soil;

(d) setting out boundaries and intended lines of the works;

(e) making such levels, boundaries and lines placing mark, and cutting trenches;

(f) ascertaining whether any land is being or has been developed in contravention of any plan or without the permission or in contravention of any condition subject to which such permission has been granted under this Act; or

(g) doing any other thing necessary for the efficient administration of this Act:

Provided that

1) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice atleast of twenty four hours to the occupier, or if there be no occupier, to the lessee of the land or building;

2) sufficient notice shall in every instance be given to enable the inmates of any apartment appropriated to females to shift to such part of the premises where their privacy may not be disturbed; and

3) due regard shall always be had, so far as may be compatible with the exigencies of the purposes for which the entry is mad, to the social and religious usages of the occupants of the premises entered.

(2) It shall be lawful for any person authorised under sub-section (1) to make an entry for the purpose of inspection or search to open or cause to be opened a door, gate or other barrier,-

(a) if the considers the opening thereof necessary for the purpose of such entry, inspection or search, and

(b) if the lessee or occupier is absent or, being present, refuses to open such door, gate or barrier.

Chapter-III

11. Trial of offences.-No Court inferior to that of a Chief Judicial Magistrate shall try and offence punishable under this Act.

12. Fine when realized to be paid to the Corporation.- All fines realized in connection with prosecution under this Act shall be paid to the Corporation.

13. Bar of jurisdiction of civil court.-Notwithstanding anything contained in any law for the time being in force, no civil court shall take cognizance of any matter which is required to be or may be decided by the Corporation or Board of the Corporation or a committee appointed by the Board or any Director or Secretary or officer or anybody thereof, under this Act.

14. Notice of suit against Corporation.- (1) No suit shall be instituted against the Corporation or any Director thereof or any of its officers or other employees or any person acting under direction of the Corporation or any Director, or any officer or other employees of the Corporation, in respect of any act done or per porting to have been done in pursuance of land disposal rules or rules made under this act or any order, or regulation made dear under there under till the expiration two months from the date of which notice in writing has been left of the office or place of adhoc of the person to be used and unless such notice states explicitly, the cause of action, the nature or relief sought, the amount of compentaion claimed and the name and place of residence of the intending plaintiff and unless the plaint contence a statement that such notice has been left or delivered.

(2) No suit such as is described in sub-section(i), shall, unless it is a suit for recovery or immovable property of for a declaration title there to, be instituted after the expiry of one year from the date on which the cause of action arises

15. Immunity to the Corporation.- No suit, prosecution or other legal proceeding shall be maintainable against the Corporation or any person acting under the direction of the Corporation or the Director, or any Officer or employee of the Corporation in respect of anything lawfully and in good faith with due care and attention done under this Act.

16. Officers and other employees of this Corporation to be public servants : – Every Director, officer and employee of the Corporation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. XLV of 1860).

17. Service of notice under this Act :- All documents which expression shall include notices and orders required by this Act or rules or regulations made thereunder or under Land Disposal Rules to be served upon any person, shall, save as otherwise provided in this Act, or rules or regulations made thereunder or under Land Disposal Rules be deemed to be duly served where it is sent by registered post or delivered at the place of business or given or tendered to the person to which it is addressed or if such person can not be found, is affixed on some conspicuous part of his last Known place of residence or business, or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates, or where an attempt to serve a document on any person in the manner indicated in the foregoing provisions of this section fails, it shall be deemed to be an effective service of the document on such person if the notice of the document to be served is published in some prominent daily local Hindi Newspaper.

18. Power of Government to make rules :- (1) The State Government may take rules for carrying out the purposes of this Act.

(2) The RIICO may, from time to time, make subject to the prior approval of the State Government, regulations for all or any of the matters provided under this Act to be governed by regulations, and generally matters also for which provisions are necessary for the exercise of its powers and discharge of its functions and duties under this Act.

(3) All rules and regulations made under this Act after its commencement, shall be laid, as soon as may be after they are made, before the House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which they are so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rules or regulations, as the case may be, or resolves that the rules or regulation, as the case may be, should not be made, the rules or regulation, as the case may be, 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 these rules or regulations, as the case may be.

(4) No regulation made by the RIICO under sub-section (2) or rules made by the State Government under sub-section (1) shall take effect unless they are published in the Official Gazette.

(5) The State Government may, at any time by notification in the Official Gazette, repeal wholly or in part or modify any regulation made by the RIICO provided that, before taking any action under this sub-section, the State Government shall communicate to the RIICO the grounds on which it proposes to do so, fix a reasonable period for the RIICO to show cause against the proposal and consider the explanation and objections, if any, of the RIICO.

(6) The repeal or modifications of any regulations shall take effect from the date of publication of the notification in the Official Gazette, if no date is therein specified, and shall not affect anything done or omitted or suffered before such date.

(जी.एस.होरा)

Secretary to the Government