

THE STATE HIGHWAYS AUTHORITY OF JHARKHAND ACT 2007
AN
ACT
[JHARKHAND ACT 12, 2008]

To provide for the constitution of a State Authority for the development, maintenance and management of State highway or any other stretch and for matters connected therewith or incidental thereto.

Be it enacted by the legislature of the state of Jharkhand in the 58th year of the Republic of India as follows:-

CHAPTER-1
Preliminary

Short title, extent and commencement-

1. (1) This Act may be called the State Highway Authority of Jharkhand Act, 2007.
- (2) it extends to the whole of the state of Jharkhand.
- (3) It shall be deemed to have come into force on such date as the state Government may, by notification in the official Gazette appoint.

Definition-

2. In this Act, unless the context otherwise requires:-
 - (a) "State Government" means Government of Jharkhand,
 - (b) "Authority" means the State Highway Authority of Jharkhand, established under section 3;
 - (c) "Chairperson" means the Chairperson of the Authority;
 - (d) "Vice-Chairperson" means the Vice-Chairperson of the Authority;
 - (e) "Council" means the Governing Council of the Authority constituted under section 4;
 - (f) "Committee" means the executive committee of the Authority constituted under section 9;
 - (g) "Employee" means a person in the full-time service of the Authority or for such period as may be decided by the Authority;
 - (h) "Prescribed" means prescribed by rules made under this Act;

- (i) "CEO" means Chief-Executive-officer;
- (j) "State Highway" means any highway including any structure attached thereto for the time being declared as a State Highway under section 3 of the Jharkhand Highways Act, 2005 (Jharkhand Act 7, 2006)
- (k) "Person" shall include any company, a firm or association or body of individuals, whether incorporated or not.

CHAPTER-II

The State Highways Authority of Jharkhand

Establishment of the Authority--

3. (1) With effect from such date as the State Government may, by notification in the Gzzette, appoint in this behalf, there shall be established for the purposes of this Act, an Authority to be called the State Highways Authority of Jharkhand.
- (2) The Authority shall be a body corporate.

Governing Council--

4. The Governing Council shall be the highest policy making body of the Authority and shall be chaired by the Chief Minister of the State. The other members of the Council shall be;
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|-----|--|------------------|
| (a) | Minister, Road Constrution Department, Jharkhand | Vice-Chairperson |
| (b) | Minister, Finance Jharkhand | Member |
| (c) | Minister, Planing, Jharkhand | Member |
| (d) | Chief Secretary, Jharkhand | Member |
| (e) | Development Commissioner | Member |
| (f) | Principal Secretary/Secretary, finance Jharkhand | Member |
| (g) | principal Secretary/Secretary, Jharkhand | Member |
| (h) | Chief Executive Officer (CEO) of the Authority
(Principal Secretary/Secretary, Road Construction
Department Jharkhand) | Member |
| (i) | Two experts (to be selected by the Exepert Members
(Governing Council) | Member |
| (j) | Member (Technical) of the Authority | Member Convener |

Terms of office and conditions of service of the members of the Governing Council--

5. (1) All members of the Governing Council, other than expertmembers, shall be ex-officio members.
- (2) The Expert-Members of the Governing Council, one from the filed of economics, finance, administration or banking and the other from the field of civil (preferably, road) construction shall be selected by the Governing Council for three years and other conditions of their service shall be such as may be prescribed by the Governing Council.

Disqualification for appointment as expert-members of the Governing Council--

6. A person shall be disqualified for being appointed as an expert-member of the Governing Council if he:-
- has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Governing Council, involved moral turpitude; or
 - is an undischarged insolvent; or
 - is of unsound mind and stands so declared by a competent court; or
 - has been removed or a dismissed from the service of the Government or a Corporation owned or controlled by the State Government; or

- (e) has in the opinion of the Governing Council, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as an expert-member of the Governing Council.

Meetings of the Governing Council--

7. (1) The Governing Council shall meet at such times and places and shall, observe such rules of procedure, in regard to the transaction of business at its meeting, Including the quorum there at, as may be provided by regulations.
- (2) If, for any reason, the Chairperson is unable to attend any meeting of the Governing Council, the Vice-Chairperson shall preside at the meeting. In the absence of both the above, Minister (member) authorized by the Chairperson shall be the Presiding authority.
- (3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

Vacancy in the Governing Council not to invalidate proceedings--

8. No act or proceeding of the Governing Council shall be invalidated merely by reason of-
- (a) Any vacancy in or any defect in the Constitution of, the Governing Council; or
- (b) Any defect in the appointment of a person acting as an expert-member of the Governing Council; or
- (c) Any irregularity in the procedure adopted by the Governing Council not affecting the merits of the case.

Executive Committee--

9. There shall be an Executive Committee headed by the Chief-Executive officer (CEO). The Committee shall report to the Governing Council and shall be responsible for such functions and exercise such powers as may be prescribed or assigned to it by the Governing Council.

Constitution of the Executive Committee--

10. The executive Committee shall consist of:-
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|--|-------------|
| (a) Chief-Executive Officer (Principal Secretary/Secretary, Road Construction Department, Jharkhand) | Chairperson |
| (b) Member (Finance) | Member |
| (c) Member (Technical) | Member |
| (d) Member (Administration) | Member |

Terms and Conditions for appointment of Members of the Committee--

11. The Method of appointment of the Member (Finance), Member (Technical) and Member (Administration) of the Executive Committee of the Authority and the terms and Conditions of their service shall be such as may be prescribed.

Appointment of officers, consultants and other employees of the Authority--

12. (1) For the purpose of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be laid down in the regulations:

- (2) The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary, on such terms and conditions as may be laid down in the regulations.

Authority to act on business principles--

13. In the discharge of its function under this Act the Authority shall act, so far as may be, on business principles.

CHAPTER-III
property and Contracts

Power of the State Government to vest or entrust any State highway in the Authority--

14. The State Government may, from time to time, by notification in the Gazette, vest in, or entrust to, the Authority, such state highway or any stretch thereof as may be specified in such notification,

Transfer of assestes liabilities of the State Government to the Authority--

15. (1) on and from the date of publication of the notification under section 14:-
- (a) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the State Government, immediately befor such date for or in connection with the purposes of any state highway or any strctch thereof vested in, or entrusted to the Authority under that section, shall be deemed to have been incurred entered into and engaged to be done by, with or for, the Authority;
 - (b) all non-recurring expenditure incurred by or for the State Government for or in connection with the purposes of any state highway or any stretch thereof, so vested in or entrusted to the Authority, up to such date and declared to be capital expenditure by the State Government shall, subject to such terms and conditions as may be prescribed, be treated as capital provided by the State Government to the Authority;
 - (c) all sums of money due to the State Government in relation to any state highway or any stretch thereof, so vested in, or entrusted to, the Authority immediately before such date shall be deemed to be due to the Authority;
 - (d) all suits and other legal proceedings instituted or which could have been instituted by or against the State Government immediately before such date for any matter in relation to such state highway or any stretch thereof may be continued or instituted by or against the Authority.
- (2) If any dispute arises as to which of assests, rights or liabilities of the State Government have been transferrd to the Authority, such dispute shall be decided by the State Government.

Acquisition of land for the Authority--

16. (1) Any land required by the Authority for discharging its functions under this Act; shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under the provisions of the land Acquisition Act, 1894.
- (2) Any land, which is under the ownership, control or management of the Authority, shall be deemed to be public land for which all relevant acts, rules and regulations shall be applicable.

Contracts by the Authority--

17. Subject to the provisions of section 18, the Authority shall be competent to enter into and performs any contract necessary for the discharge of its functions under this Act.

Mode of executing contracts on behalf of the Authority--

18. (1) Every contract shall, on behalf of the Authority, be made by the Chief Executive officer of the Authority or its such other members or officers as may be generally or specially empowered in this behalf by the Authority and such contract or classes of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority;
- provided that no contract for the sale of immovable property shall be made unless it has been previously approved by the State Government.
- (2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be laid down in the regulations.
- (3) A contract, which is not in accordance with the provisions of Act Rules and the regulations made under this Ordinance, shall not be binding on the Authority.

CHAPTER-IV**Functions of the Authority****Functions of the Authority--**

19. (1) Subject to the rules made under this Act, it shall be the function of the Authority to develop, maintain and manage the state highway and any other stretch or any structure attached thereto vested in, or entrusted to it, by the State Government in the manner that the authority becomes preferably independent of Government funding for the maintenance of the highways within three years from the date it is setup.
- (2) Without prejudice to the generality of the provisions contained in sub section (1), the Authority may, for the discharge of its functions;
- (a) Survey, develop, maintain and manage highways vested in, or entrusted to it and to achieve where of the Authority wil, inter alia;
- (i) prepare immediate and long-term plans for the maintenance and up-gradation of the State Highways that are entrusted to it;
- (ii) develop a scientific Pavement Management System for systematizing the maintenance operations and also lay down the standards for design and construction of state highways;

- (iii) develop models for bringing in private and institutional, including international funding into the road sector.
- (iv) develop methods of performance based maintenance systems for maintenance of the state highways by quality private contractors;
- (v) raise institutional resources for undertaking the maintenance and up-gradation of these highway; and
- (vi) maintain and upgrade the highways as per approved plan while encouraging private partnership and resources for these purposes;
- (b) regulate and control the plying of vehicles on the highways vested in, or entrusted to, it for the proper management thereof;
- (c) develop and provide consultancy and construction services in the State and carry on research/training activities/human resource development/setting up of state level laboratories etc. in relation to the development, maintenance and management of highways or any facilities thereat;
- (d) provide such facilities and amenities for the users of the highways vested in, or entrusted to, it as are, in the opinion of the Authority, necessary for the convenience and smooth flow of traffic on such highways;
- (e) form one or more companies under the Companies Act, 1956 (Act no. 1 of 1956) to further the efficient discharge of the functions imposed on it by this Act;
- (f) engage, or entrust any of its functions to, any person on such terms and conditions as may be prescribed;
- (g) advise the State Government on matters relating to State highways;
- (h) collect fees on behalf of the State Government on such terms and conditions as may be specified by the State Government; and
- (i) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act
- (j) construct & maintain offices and workshops and establish and maintain hotels, motels, restaurants, and rest rooms at or near the highway vested in or entrusted
- (k) construct & maintain buildings and townships for its employees
- (l) promote public-private partnership to achieve the above mentioned objectives;
- (3) Nothing contained in this section shall be construed as:-
- (a) authorizing the disregard by the Authority of any law for the time being in force; or
- (b) authorizing any person to institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not otherwise be subject under this Act.

CHAPTER-V

Finance, Accounts and Audit

Additional capital and grants to the Authority by the State Government--

20. The State Government may, after due appropriation made by State legislature by law in this behalf;
- (a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as the State Government may determine;
 - (b) pay to the Authority, on such terms and conditions as the State Government may determine, by way of loans or grants such sums of money as the State Government may consider necessary for the efficient discharge by the Authority of its functions under this act.

Fund of the Authority--

21. (1) There shall be constituted a fund and there shall be credited thereto;
- (a) Any grant or aid received by the Authority;
 - (b) Any loan taken by the Authority or any borrowings made by it;
 - (c) any other sums received by the Authority;
 - (d) All sums of money specified in section 20 & 21 (a), (b) & (c) shall be deposited in any nationalised or Scheduled Bank or in such other Financial Institutions as may be decided by the Governing Council and the said amount shall be operated in such manner as prescribed
- (2) The fund shall be utilized for meeting--
- (a) expenses of the Authority in the discharges of its functions having regard to the purposes for which such grants, loans or borrowings are received and for matters connected therewith or incidental thereto;
 - (b) salary, allowances other remuneration and facilities provided to the members, officers and other employees of the Authority;
 - (c) expenses on objects and for purposes authorized by this Act.
- (3) Any demand against the fund of the Authority shall be deemed to be public demand, the recovery of which, shall be admissible under the Public Demand Recovery Act, 1914.

Budget--

22. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year showing the estimated receipt and expenditure of the Authority and forward the same to the State Government.

Investment of funds--

23. The Authority may invest its funds (including any reserve fund) in the securities of the State Government or in such other manner as may be prescribed.

Borrowing powers of the Authority--

24. (1) The Authority may, with the consent of the State Government or in accordance with the terms of any general or special authority given to it by the State Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

- (2) Subject to such limits as the State Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amounts as it may required for discharging its functions under this Act.
- (3) The State Government may guarantee in such manner as it thinks fit the repayment of the principal and the payment of interest thereon with respect to the borrowings made by the Authority under sub-section (1).

Annual report--

25. The Authority shall prepare, in such forms and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Account and audit--

26. The account of the Authority shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State be prescribed and the Authority shall furnish, to the State Government before such date as may be prescribed, its audited copy of accounts together with the auditor's report thereon.

Annual report and auditor's report to be laid before legislature--

27. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be, after they are received before the legislature.

CHAPTER VI**Miscellaneous****Delegation of Powers--**

28. The Governing Council may, by general or special order in writing delegate to the Chairperson or a sub-committee of the Council or to the Executive Committee or to Chief-Executive officer or any officer of the Authority, subject to such conditions and limitations, if any be specified in the order, such of its powers and functions under this Bill as it may deem necessary except that the following functions and powers shall be exercised only by the Council;
 - (a) to borrow long term funds from the market or financial institutions, This will not include arranging short-term funds and overdraft to meet the working capital requirements.
 - (b) to appoint officers or employees whose basic pay exceeds a sum as prescribed in rules;
 - (c) framing regulations for the working of the authority and if required, amendments thereto.
 - (d) any other matter, as may be prescribed.

Authentication of orders and other instruments of the Authority--

29. All orders, decision and other instruments of the Authority shall be authenticated by the signature of the Chairperson or any officer of the Authority authorized by it in this behalf.

Employees of the Authority to be public servants--

30. All members, officers and employees of the Authority shall, when acting or purporting to act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian penal Code, 1860 (Act no. 45 of 1860) and under the rules or directions made by the State Government.

Protection of action taken in good faith--

31. (1) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for anything which is in good faith done or intended to be done under this act, or the rules or regulations made thereunder.
- (2) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act, or the rules or regulations made thereunder.

Power of the Authority to undertake certain works--

32. The Authority may undertake to carry out on behalf of the State Government or any local authority any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the State Government or the Local authority concerned.

Power to enter--

33. Subject to any regulations made in this behalf any person, generally or specially or authorized by the Author in this behalf, may whenever it is necessary to do so for any of the purposes of this Bill, at all reasonable times, enter upon any land or premises, and-
- make any inspection, survey, measurement, valuation or enquiry;
 - take levels;
 - dig or bore into sub-soil;
 - set out boundaries and intended lines of work;
 - mark such levels, boundaries and lines by placing marks and cutting trenches; or
 - do such other acts or things as may be prescribed:
- Provided that no such person shall enter any boundary or any enclosed court or garden attached to a dwelling house (except with consent of the occupier thereof) without previously giving such occupier at least twentyfour hours' notice in writing of his intention to do so.

Power of the State Government to annul inconsistent decision of the Authority--

34. If any resolution or direction of the Authority is inconsistent with the broad policy parameters defined by the state government, then state Government may annul the same.

Power of the State Government to make rules--

35. The State Government may 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-
- (a) the appointment, terms of office and other conditions of service of the expert-members of the Governing Council and Member (Technical), Member (Finance) and Member (Administration);
 - (b) the powers and duties of the chairperson, Chief Executive officer and other members of the Committee;
 - (c) the terms and conditions subject to which the non recurring expenditure incurred by or for the State Government for or in connection with the purposes of any State highway shall be treated as capital provided by the State Government to the Authority under clause (b) of sub-section (1) of section 15;
 - (d) the basic salary under clause (b) of section 28;
 - (e) the terms and conditions subject to which the functions of the Authority may be entrusted to any person under clause (f) or sub-section (2) of section 19;
 - (f) the form in which and the time within which the Authority shall prepare its budget under section 22 and its annual report under section 25;
 - (g) The manner in which the authority may invest its funds under section 23;
 - (h) the manner in which the accounts of the Authority shall be maintained and audited and the date before which the audited copy of the accounts together with the auditor's report thereon shall be furnished to the State Government under section 26;
 - (i) the conditions and restrictions with respect to the exercise of the power to enter under section 33;
 - (j) any other matter which is required to be, or may be prescribed.

Powers of the Authority to make regulations--

36. (1) The Authority may, by notification in the gazette, make regulations not inconsistent with this Act, and the rules made thereunder to carry out the provisions of this Act;
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely;
- (a) the times and place of the meetings of the Council and the Committee and the procedure to be followed for the transaction of business at such meetings;
 - (b) the terms and conditions of service, method of recruitment and the remuneration of officers and other employees to be appointed by the Authority;
 - (c) the form and manner in which a contract or class of contracts which are to be made by the Authority and the contracts or classes of contracts which are to be sealed with the common seal of the Authority;
 - (d) The manner of preventing obstructions on the State highways for their normal functioning;
 - (e) the manner of prohibiting the parking or waiting of any vehicle or carriage on the State highway except at place specified by the Authority;
 - (f) the manner of prohibiting or restricting access to any part of the State highway;
 - (g) the manner of regulating or restricting advertisements on or around State Highway;
 - (h) the manner of transaction of the business of the authority including the delegation of powers; and

- (i) generally for the efficient and proper maintenance and management of the State highways.

Power to remove difficulties--

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government, may by notification in the Gazette, make such order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislature.

झारखण्ड राज्यपाल के आदेश से,

प्रशान्त कुमार,

सरकार के सचिव-सह-विधि परामर्शी,
विधि (विधान) विभाग, झारखण्ड सरकार,
राँची ।
