

झारखंड सरकार
विज्ञान प्रावैधिकी, सूचना तकनीकी एवं उद्योग विभाग, राँची

अधिसूचना

संख्या 339

दिनांक 2.3.2001

नवसृजित झारखंड राज्य के नियंत्रणाधीन औद्योगिक क्षेत्र विकास प्राधिकारों के नियंत्रण एवं निर्देशन के लिये पूर्ववर्ती बिहार राज्य में इस हेतु लागू "बिहार औद्योगिक क्षेत्र विकास प्राधिकार अधिनियम-1974" एवं बिहार औद्योगिक क्षेत्र विकास प्राधिकार नियमावली" की तत्काल प्रभाव से झारखंड राज्य द्वारा अंगीकृत किया जाता है।

"बिहार औद्योगिक क्षेत्र विकास प्राधिकार अधिनियम-1974" एवं बिहार औद्योगिक क्षेत्र विकास प्राधिकार नियमावली" में प्रत्युक्त "बिहार" शब्द के स्थान पर "झारखंड" शब्द प्रतिस्थापित होगा और अब यह अधिनियम एवं नियमावली "झारखंड औद्योगिक क्षेत्र विकास प्राधिकार अधिनियम-2001" एवं "झारखंड औद्योगिक क्षेत्र विकास प्राधिकार नियमावली - 2001" के रूप में क्रमशः जाना जाएगा एवं इसी रूप में लागू समझा जाएगा।

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विज्ञान प्रावैधिकी, सूचना तकनीकी एवं
उद्योग विभाग, झारखंड, राँची

ज्ञापक 339 / राँची, दिनांक 2.3.2001 /

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प्रतिलिपि - अधीक्षक, राजकीय मुद्रणालय, राँची को राजपत्र के अगले अंक में प्रकाशनार्थ प्रेषित। अनुरोध है कि उक्त राजपत्र की 100 प्रतियाँ विज्ञान प्रावैधिकी, सूचना तकनीकी एवं उद्योग विभाग, झारखंड, राँची को भी उपलब्ध करायी जाए।

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विज्ञान प्रावैधिकी, सूचना तकनीकी एवं
उद्योग विभाग, झारखंड, राँची

ज्ञापक 339 / राँची, दिनांक 2.3.2001 /

सं0सं06/उ0विधि प्राधिकार-12/2001

प्रतिलिपि- प्रबंध निदेशक, सभी औद्योगिक क्षेत्र विकास प्राधिकार/ महाप्रबंधक, सभी जिला उद्योग केन्द्र को सूचना एवं आवश्यक कार्रवाई हेतु प्रेषित।

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विज्ञान प्रावैधिकी, सूचना तकनीकी एवं

The Bihar Industrial Areas Development Authority Act, 1974

[Bihar Act 16 of 1974]

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An act to provide for planned development of Industrial Areas and promotion of Industries and matters appertinent thereto.

Be it enacted by the Legislature of the State of Bihar in the Twenty-fifth Year of Republic of India as follows :

Chapter I

1. Short title, extent and commencement.—(1) This Act may be called the Bihar Industrial Areas Development Authority Act, 1974

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

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

- (a) "*Amenity*" includes roads, water-supply, street lighting, drainage, sewerage, school, housing, hospital and recreation facilities and such other convenience and facility as the State Government may, by Notification in the Official Gazette, specify to be an amenity for the purposes of this Act;
- (b) "*Building*" includes any structure or creation or part of structure or creation which is intended to be used for residential, industrial, commercial, or other purpose, whether in actual use or not;
- (c) "*Development*" with its grammatical variations means the carrying out of building engineering or any other operations in, on, over or under land or the making of any material change in any building or land including the provision of accommodation for carrying on industrial activities with or without accommodation for residential purposes or other activities and with all proper facilities for public works, recreation, amenity and other basic requirements for establishment of industries, and includes re-development;

- (d) the word "*industry*" would have the same meaning as has been assigned to it under Section 2, clause (3) of the Bihar State Aid to Industries Act, 1956;
- (e) "*Development Area*" means any area declared to be a development area under Section 4;
- (f) "*Industrial Area*" means an area for which an Authority is constituted under Section 3;
- (g) "*Regulation*" means a Regulation made under this Act by the Authority constituted under Section 3;
- (h) "*Rule*" means a Rule made under this Act by the State Government;
- (i) "*Prescribed*" means prescribed in the Rules framed by the State Government under this Act.

Chapter II

3. Industrial areas development authority aims and object.—(1) The State Government may at any time after commencement of this Act constitute by notification, an Authority for any area or areas for development and promotion of industry (hereinafter in this Act, referred to as the Authority).

Explanation.—The State Government may set up one or more Authorities, or one Authority for one or more areas in the State under this Act such an Authority will be known as "(name of the area) Industrial Area Development Authority."

(2) The Authority shall be a body corporated by name aforesaid having perpetual succession and a common seal with powers to acquire, hold and dispose of properties, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) (i) Any such Authority shall consist of a Chairman, a Managing Director and five other Directors who shall be appointed by the State Government and who shall hold their office, on terms and conditions to be prescribed in this behalf, at the pleasure of the State Government.

(ii) The Chairman of the Authority shall be a Government servant not below the rank of a Commissioner or any other person who may be nominated by the Government.

(iii) The State Government may, if it is found to be expedient, appoint the same person as Chairman and Managing Director of the Authority.

(4) The Managing Director shall be a whole-time officer and the Chief executive of the Authority and shall perform, among others, the following duties under the general guidance of the Chairman—

- (a) he shall receive all the moneys on behalf of the Authority and issue receipt and maintain proper account for the same;
- (b) he shall draw money from the fund of the Authority for disbursement of salaries, allowances and meeting the expenses of the Authority;
- (c) he shall authenticate any order of the Authority;
- (d) he shall perform any order, duty that may be assigned to him by the Authority or the State Government from time to time.

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Secs. 4-6] Bihar Industrial Areas Development Authority Act, 1974 [533

Comments and Case-law

[Post of Chairman of the Authority is an office of profit under the Government coming within the mischief of Article 191(a) of the Constitution and he holds the office at the pleasure of the State Government. *Nageshwar Prasad vs. State of Bihar*, 2002(1) PLJR 534.]

4. Declaration of areas as development area.—(1) The State Government may by a notification in the Official Gazette declare any area adjacent to an area a “development area” for the purposes of this Act after taking into consideration any objection that may be raised in the manner prescribed in the Rules :

Provided that no objections need be invited for any area already declared as “controlled area” under sub-section (1) of Section 3 of the Bihar Restriction of Uses of Land Act, 1948.

(2) After an area has been notified as development area under sub-section (1) of Section 4 of this Act, no person or company or business house or anybody (including a department of the State Government) shall undertake or carry out any construction, modification or demolition of any structure or building within such development area without the prior approval of the Authority in accordance with the procedure laid down in the Rules prescribed.

(3) Unless otherwise stipulated in the Rules, the procedure regarding application for permission to build, excavate or lay out any means of access, and grant and refusal of such permission shall be according to the provisions of the Bihar Restriction of Uses of Land Act, 1948 in this behalf.

5. Establishment.—The Authority shall have its own establishment for which it shall frame Regulations with prior approval of the State Government.

Chapter III

Powers and Duties of the Authority

6. General duties and powers of the Authority.—(1) Subject to the provisions of this Act, the Authority shall be responsible for the planned development of the Industrial Areas (including preparation of the Master Plan of the area) and promotion of industries in the area and other amenities incidental thereto.

(2) The Authority shall be responsible for planning, development and maintenance of the Industrial Area and amenities thereto and allotment of land, execution of lease and cancellation of such allotment or lease, realisation of fees, rent charges and matters connected thereto.

✓[(2-a) In case necessary effective steps are not taken within the fixed period to establish the industry, the authority shall in such condition, cancel the allotment of allotted plot/shed and also forfeit the amount deposited in this connection. The authority shall, before cancelling the allotment allow one month time to the allottee to put up his case. The allottee on being dissatisfied with the order of the Authority may file an appeal to the State Government within one month and the State Government shall, after due consideration dispose it of within two months from the date of receipt of the appeal.

(2-b) The authority shall, after cancellation of allotment of the plot/shed take possession of the said plot/shed.]

(3) The State Government may from time to time entrust the Authority with any other work that is connected with planned development, or maintenance of the Industrial Area and its amenities and matters connected thereto.

(4) The Authority shall have the powers of the Commissioner of a Municipality as specified in Sections 196, 197, 198, 199, 200, 201 and 202 of Bihar and Orissa Municipal Act, 1922, for purposes of removal of encroachment on roads, houses, gullies, any land in the development area and properties of the Authority.

(5) The State Government may, by notification in the Official Gazette, vest the Authority or the Chairman or the Managing Director with powers under any other Act for planning development and maintenance of civil amenities like housing and schools and vacation of encroachment, etc. that are exercisable by any local authority or statutory body or State Agency under any law for the time being in force in this regard.

(6) Where, in the opinion of the Authority, as a consequence of any development having been executed by the Authority in any development area, the value of any property in that area which has been benefited by the development has increased, the Authority may, with the prior approval of the State Government, levy upon the owners of the property or any person having interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development :

Provided that no betterment charge shall be levied in respect of lands owned by the State or the Central Government.

(7) Such betterment charge shall be an amount, in respect of any property situated in a development area, equal to one-third of the amount by which the value of the property on the completion of the execution of the development scheme, estimated as if the property was clear of building exceeds the value of the property prior to such execution estimated in like manner.

(8) The Authority may in addition to the grants, loans, advances or subsidies that may be received from the State Government also borrow from any source, with the prior approval of the State Government.

Comments and Case-law

[Managing Director is the Chief Executive Officer and the "Authority" functions through him, therefore decision taken by him is not one and the same of the "Authority". "Authority" cannot be read to mean Managing Director. The exercise of power u/s 6(2) is not vested in Managing Director, it has to be exercised by the "Authority" which means the Board of Directors headed by Chairman of which Managing Director is only a part. If legislature in its wisdom have delegated the powers u/s 6(2) to the "Authority" then it is only the Board of Directors who can exercise power thereunder, that too will be exercised in the limited circumstances. Any unilateral exercise of power of cancellation u/s 6(2) of the Act by the Managing Director or his subordinates is an illegal exercise of authority *de hors* the law and the same are liable to be struck down and in all such matters where power of cancellation has been exercised by the MD is declared null and void. BIADA authorities would be liable to restore possession and handover the land, property, plant and machinery to the respective lessees as if the power u/s 6(2) was never exercised against them. Any third party interest which may have been created, because of illegal cancellation by Managing Director/BIADA will not create any right, title or interest in the leased property, since a right on claim flowing from an illegal act, will not confer any legal right in them. *Deepak Paints (P) Ltd. vs. State of Bihar, 2008(2) PLJR 293.*

Petitioner deposited OTS Scheme floated by the land value as transf. There was no clause in t by registration office of t estate by the Authority. It and freehold land. Price has no co-relation with purpose for which the li industrialization in the S: make money by linking t for free-hold of the area. of land' fixed by the BI Therefore, order of canquashed. BIADA could d transfer but could not lin *Shankar Saw Mills vs. B*

Industrial Develop State. Therefore the alk industry. However when wanted to retain it more property to minor/incons lease, cancellation of th *State of Bihar, 2005(4) F*

In one case lease of and the land was allotted spent substantial amount to hand over possession in case of taking forcible p failed to establish industri allegations that the de permission which result certificate and availing t consider his application *Pvt. Ltd. vs. State of Bi:*

Prem Chandra Mis arbitrariness, abuse of discipline. The responde land at seven places. Pr like cost analysis, mark project report did not im applications for lands ur these incongruencies a viable and possession allotting more lands th Authority had more lan materials on record. The Agreement was exe 1986 in discrimination was not procured after t (thus the land did not fal as per clause 3(1)(b) of

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Bihar Industrial Areas Development Authority Act, 1974

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Petitioner deposited the consideration amount demanded for the allotment under the OTS Scheme floated by the Authority, but he was further asked to deposit 15 per cent of the land value as transfer charge fixed by registry office of the area for its registration. There was no clause in the terms and conditions to link the 'land value' to the value fixed by registration office of the area instead of 'land value' fixed for such land in the industrial estate by the Authority. It was held that there is a marked distinction between a lease-hold and freehold land. Price fixed by the Collector for registration/alienation of free-hold land has no co-relation with the allocation of land in industrial area on lease. Object and purpose for which the Industrial Development Authority was set up was to encourage industrialization in the State and not to engage in a speculative activity of real estate to make money by linking transfer of 15 per cent of the land value of the price of registration for free-hold of the area. It was therefore held that expression 'land value' will mean 'value of land' fixed by the BIADA for the various industrial areas where the land is located. Therefore, order of cancellation of allotment for non-deposit of registration amount was quashed. BIADA could demand 15 per cent of the land value as fixed by it as the price for transfer but could not link it with the value of the land fixed by the registration office. *M/s Shankar Saw Mills vs. Bihar Industrial Area Development Authority*, 2011(1) PLJR 986.

Industrial Development Authority was set up to encourage industrialization in the State. Therefore the allottees were required to use the allotted land for the proposed industry. However where the allottee never took the lease in question seriously and wanted to retain it more as an immovable property, but as a camouflage had put the property to minor/inconsequential industrial use seven years after commencement of the lease, cancellation of the allotment was upheld. *M/s Behar Engineering Corporation vs. State of Bihar*, 2005(4) PLJR 187.

In one case lease of the land was cancelled because of non-fulfilment of stipulations and the land was allotted to another person who paid the requisite amount and further spent substantial amount for its development and the DIADA directed the original allottee to hand over possession to the new allottee. The Court noticed the fact that this was not a case of taking forcible possession from the earlier lease holder because he apparently failed to establish industry over it and deposit the balance amount. However, in view of the allegations that the delay was caused by DIADA Authority in according necessary permission which resulted in cancellation of the original allottee's provisional registration certificate and availing the term loan granted to him, the Court directed the authorities to consider his application for registration and allotment of another land. *M/s Ujjawal Coal Pvt. Ltd. vs. State of Bihar*, 1999(2) PLJR 274.

Prem Chandra Mishra vs. State of Bihar, 2007(1) PLJR 372 is case of gross arbitrariness, abuse of authority, utter disregard to rule of law, and following financial discipline. The respondents had requested for land at six places only but were allotted land at seven places. Project report did not contain any financial projection and analysis, like cost analysis, market survey or any assessment of the return on investment. The project report did not indicate consequential employment opportunities either. Above all, applications for lands under Regional Office, Muzaffarpur submitted at Patna. In spite of these incongruencies and irregularities, the Development Officer found the projects viable and possession of land handed over without execution of lease deed. As for allotting more lands than requested the State shamelessly took the stand that the Authority had more lands than seekers and hence no need to invite bids belied by materials on record. The Court had no option but to quash the allotment.

Agreement was executed in petitioner's favour in 1989 ignoring the Industrial Policy 1986 in discrimination with other similarly situated persons. Land allotted to petitioner was not procured after taking loan from Bank or Financial Institution on high interest rate (thus the land did not fall in the category for which 12% interest could have been realised as per clause 3(1)(b) of 1986 Industrial Policy) but the petitioner was charged interest @

12%. In this fact situation, BIADA was held entitled to an interest of 5% only and was therefore directed to calculate excess amount realised, prepare an account calculating interest @ 5% p.a. and on such calculation, amount refundable to be paid/adjusted against dues, if any. *Badri Mehrotra vs. State of Bihar*, 2007(3) PLJR 410.

Under the Bihar Industrial Policy, 1986 Industry Department had issued specific direction that only the dues could be demanded by the authorities from the allottees in case of reconstitution of management or transfer of unit. There was no provision for additional charge @ 15% of the land value. Therefore memo imposing additional burden of 15% of land value was quashed. *ibid.*

A lease was cancelled after giving notice asking the cause for delay in starting the unit and also mentioning that if no satisfactory reply is received, decision to take action for cancellation of lease and forfeiture of consideration money may be taken. It was held that if the authority had not found the reply satisfactory, they should have given a show cause notice giving opportunity of hearing before cancellation of lease. Even the provisions of T.P. Act were not followed. In fact the notice given by Authority was not for proposed cancellation rather it was seeking explanation for delay and future course of action. Therefore termination of lease was held not to be valid. *Suiti Exports Limited vs. Adityapur Industrial Area Development Authority*, 2001(2) PLJR 163.

In all matters where a lease agreement stands executed and concluded, the parties thereafter have enjoyed the lease hold property, the only way the BIADA could dispossess them would be by moving a Civil Court of competent jurisdiction by adopting due process of law and only on such a declaration by the competent court in this regard. BIADA has no right of repossession unilaterally. *Deepak Paints (P) Ltd. vs. State of Bihar*, 2008(2) PLJR 293.

Section 6(2) provides for appeal against order of cancellation of allotment of land. When an allottee filed writ petition against cancellation of his lease without availing the remedy of appeal and the matter involved disputed and complicated questions of fact, the writ application was held not maintainable. *M/s Premi Printing Press vs. Patna Industrial Area Development Authority*, 1995(1) PLJR 755.]

7. Financial powers.—(1) The Authority shall have and maintain its own fund to which shall be credited—

- (a) all moneys received by the Authority from the State Government by way of grants, loans, advances or otherwise;
- (b) all fees, rents, charges, levies and fines received by the Authority under this Act;
- (c) all moneys received by the Authority from disposal of its movable and immovable assets;
- (d) all moneys received by the Authority by way of loan from financial and other institution and debentures floated for the execution of a scheme or schemes of the Authority duly approved by the State Government.

(2) Unless the State Government otherwise directs, all moneys received by the Authority shall be credited to its fund which shall be kept with the State Bank of India and/or one or more of the Nationalised Banks and drawn as and when required by the Authority.

Comments and Case-law

[The control of the State Government on an Industrial Area Development Authority is all pervasive. *Nageshwar Prasad vs. State of Bihar*, 2002(1) PLJR 534.]

8. Budget.—(1) financial year ensuing and shall forward to t prescribed by Rules considered expendi

(2) The Authority prepare an annual s

(3) The account Accountant-General such audit shall be p Accountant-Genera audit of the account the Government acc

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9. Miscellaneous required for the purp under the Land Acq

(2) The State Gc as may be decided undeveloped land v in accordance with

(3) If any land s required at any time State Government.

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[In absence of a inferred from the cor absence of any agre Government and its disown his liability of PLJR 924.]

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8. Budget.—(1) The Authority shall prepare a budget every year in respect of the financial year ensuing showing the estimated receipts and expenditures of the Authority and shall forward to the State Government such number of copies thereof as may be prescribed by Rules and the State Government may issue any directive as may be considered expedient for the purpose of this Act.

(2) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including a balance sheet.

(3) The accounts of the Authority shall be subject to audit annually by the Accountant-General, Bihar, and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Accountant-General, Bihar. The Accountant-General shall have all the privileges and Authority in connection with audit of the accounts of the Authority as he is entitled to in connection with audit of the Government accounts.

(4) The accounts of the Authority as certified by the Accountant-General, Bihar, or any other person appointed by him in this behalf together with the audit report shall be forwarded every year to the State Government along with an annual report.

Chapter IV

9. Miscellaneous Provision.—(1) The State Government may acquire any land required for the purpose of the Authority, which shall be deemed to be "public purpose" under the Land Acquisition Act, 1894.

(2) The State Government may by a deed of lease, transfer on terms of conditions as may be decided by the State Government, to the Authority any developed or undeveloped land vested in the State of Bihar for the purpose of development or use in accordance with provisions of this Act.

(3) If any land so placed at the disposal of the Authority under sub-section (2) is required at any time by the State Government, the Authority shall restore it to the State Government.

10. Every Director and every officer and employee of the Authority shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code.

11. Any money due to the Authority on account of fees, rent or charges or the disposal of land, building or other properties, movable and immovable, or by way of rents and profits, may be recovered by the Authority as areas of land revenue under the Bihar Public Demands Recovery Act, 1914.

Comments and Case-law

[In absence of a formal agreement inter-parties, the terms of the agreement can be inferred from the conduct of the parties or the letters of the parties. Therefore, even in absence of any agreement inter-parties, in view of the letter of allotment of land by the Government and its occupation by the petitioner, it was held that the petitioner cannot disown his liability of payment of rent. *Om Prakash Sharma vs. State of Bihar*, 2000(1) PLJR 924.]

12. (1) Any person who violates any order of the Authority in respect of removal of any structure or encroachment or uses any land or building in contravention of any Regulation framed by the Authority in this behalf shall be punishable with fine which

may extend up to Rs. 10,000 or simple imprisonment for a term which may extend to six months or both and in case of a continuing offence with further fine which may extend to Rs. 100 for every day after conviction.

(2) All fines realised in connection with prosecution under this Act shall be paid to the Authority.

(3) No Court below the rank of a Magistrate of the First Class shall try any offence under this Act.

13. Save as aforesaid the provisions of this Act and Rules and Regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in the State.

14. The State Government may, by Notification in the Official Gazette, make Rules to carry out the purposes of this Act and in particular provide for—

- (a) removal of encroachments on lands belonging to the Authority;
- (b) removal of unauthorised structures;
- (c) demolition of buildings which may interfere with the planning or which may have been erected in contravention of the Regulations of the Authority;
- (d) the submission of reports and returns by the Authority to the State Government on matters relating to the duties, powers and responsibilities of the Authority;
- (e) the issue of directions by the State Government laying down broad principles for the fulfilment of aims and objects of the Act.

15. The Authority may, with the prior approval of the State Government, by a Resolution published in the Official Gazette, make Regulation to carry out the purposes of this Act.

16. No suit, prosecution or other legal proceeding shall lie against any person for any action which is in good faith done or intended to be done under this Act, or any Rule or Regulations made thereunder.

17. When the State Government is satisfied that the purpose for which the Authority was established under this Act has been substantially achieved so as to render the continuance of the Authority unnecessary, the Government may by notification in the Official Gazette, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved accordingly from the said date and all the properties, funds and dues realised by the Authority alongwith its liabilities shall devolve upon the State Government.

Comments and Case-law

[After amendment of the Income Tax Act by Finance Act, 2002 adding explanation to Section 10(20) and omitting section 10(20A) Authorities like BIADA were excluded from the definition of 'Local Authorities' thereby disentitling them for exemption from income tax. *Adityapur Industrial Area Development Authority vs. Union of India*, 2006(3) PLJR (SC) 152.]

18. **Repeal and saving.** — (1) The Bihar Industrial Area Development Authority Ordinance, 1974 (Bihar Ordinance No. 80, 1974) is hereby repealed.

(2) Notwithstanding any power conferred done or taken in the were in force on the

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Secs. 1-2) Bihar Industrial Areas Development Authority (Amdt.) Act, 1991 [539

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of power conferred by or under the Act as if this Act were in force on the day of which such thing was done or action was taken.

The Bihar Industrial Area Development Authority (Amendment) Act, 1991

[Bihar Act 27 of 1992]

An Act to amend the Bihar Industrial Area Development Authority Act, 1974.

Be it enacted by the Legislature of the State of Bihar in the Forty-second Year of the Republic of India as follows—

[Statement of aims and objects.—Section 6(2) of the Bihar Industrial Area Development Authority Act, 1974 provides adequate power to the Authority for cancellation of allotted plots but it does not provide specifically about taking possession after cancellation of allotment order lease deed. As a result of this it has become difficult to take possession of the cancelled plots, sheds due to various legal provisions.

As such to overcome various legal hurdles, it has become necessary to amend Section 6(2) of the Bihar Industrial Area Development Authority Act, 1974. The objective of this Bill is to enact the abovesaid provision.]

1. Short title and commencement. — (1) This Act may be called the Bihar Industrial Area Development Authority (Amendment) Act, 1991.

(2) It shall come into force with retrospective effect.

2. Amendment of Section 6.—[Sub-sections (2-a) and (2-b) added in the text of the Act.]

Bihar Industrial Area Development Authority Rules, 1981

Government of Bihar, Directorate of Industries, Notification No. 1962, dated 2.2.1982.—In exercise of the powers conferred by Section 14 of the Bihar Industrial Area Development Authority Act, 1974 (Bihar Act 16 of 1974) the Government of Bihar is pleased to make the following Rules:—

1. Short Titles.—These Rules may be called the Bihar Industrial Area Development Authority Rules, 1981.

2. Definitions.—In these Rules, unless there is anything repugnant in the subject or context—

- (a) 'Act' means the Bihar Industrial Area Development Authority Act, 1974 (Bihar Act 16 of 1974).
- (b) 'Section' means a Section of the Act.
- (c) 'Form' means a Form in the schedule of these Rules.
- (d) Other words and expressions shall have the same meaning as are assigned to them in the Act.

3. Entrustment of duties of Managing Directors of the Authority by the State Government/Authority under Section 3(4) (d) of the Act.—The following duties are being entrusted to the Managing Directors by the State Government Authority—

- (1) Allotment and cancellation of plots.
- (2) Purchase of plant & machinery not exceeding Rs. one lakh.
- (3) Sanction expenditure on fixed assets not exceeding Rs. fifty thousands.
- (4) Accord administrative approval of scheme not exceeding rupees one lakh.

Comments and Case-law

[Power conferred u/r 3 on Managing Director is limited to the case of initial allotment and its cancellation. *Deepak Paints (P) Ltd. vs. State of Bihar*, 2008(2) PLJR 293.

Rule 3(a) by no stretch of imagination will provide overriding powers to the Managing Directors to effect cancellation of lease on repossession. *Deepak Paints (P) Ltd. vs. State of Bihar*, 2008(2) PLJR 293.]

4. Objection against declaration of Development area under section 4(1) of the Act.—(1) Not less than two months before making in declaration under sub-section (1) of Section 4 of the Act the State Government shall cause to be published in the Official Gazette and in at least two English and two Hindi dailies published in Bihar, a Notification stating that it is proposed to make such a declaration and specifying there in the boundaries of the land or lands in respect of which the declaration is proposed to be made and copies of such notification or the substance thereof shall be published by the District Magistrate concerned and the Authority concerned in such manner as they think fit at their office and at such other places in the jurisdiction including the locality in which the land or lands are situated as are in their opinion suitable for giving adequate notice to persons interested or likely to be interested in the proposed declaration.

(2) Any person interested in any land included in the said boundaries may at any time before the expiry of thirty days from the last date of publication of the notification under sub-rule (1) of this Rule object to the declaration or to the inclusion of his land or any part thereof within the said boundaries.

(3) Every objection under sub-rule (2) of this Rule shall be made to the District Magistrate in writing and the District Magistrates shall give to every person so ob-

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jecting an opportunity of being heard either in person or through his counsel and after doing such additional enquiry which he thinks necessary, forward to the State Government a report setting forth his recommendations on the objections within thirty days of the filing of the objections.

(4) The State Government, after considering the report of the District Magistrate under sub-rule (3) of the Rule and obtaining the views of the authority may either abandon the proposal to make a declaration under sub-section (1) of Section 4 of the Act or make declaration in respect of either the whole or part or parts of the land included within the boundaries specified in the notification under sub-rule (1) of this Rule.

(5) If before the expiry of the time prescribed by sub-rule (2) of this Rule no objection has been made, the District Magistrate shall forthwith submit a report to the State Government to that effect and the State Government may thereupon proceed at once to make a declaration under sub-section (1) of Section 4 of the Act.

5. Approval of the Authority for construction, modification or demolition of any structure or building in the Development Area under Section 4(2) of the Act.—(i) Every person desiring to obtain approval of the Authority referred in sub-section (2) of Section 4 of the Act shall make an application in writing to the Authority in Form appended to these Rules alongwith ground plan, elevation and location and specification of the work to be done or demolition to be made prepared by an Engineer holding a degree in Engineering or possession of an equivalent qualification.

(ii) On receipt of such application, the Authority, after making such enquiry as it considers necessary, shall by an order in writing, either grant approval subject to such conditions and modification, if any, as may be specified in the order or refuse to grant such approval.

(iii) An appeal case lies before the State Government against the order of the Authority within 80 days from the date of its orders and in such appeal the decision of the State Government shall be final.

6. Power of the Authority to cancel land allotment deed, levy fee, impose penal interest and forfeit instalments under Section 6(2) of the Act.—(i) If the entrepreneurs do not make payment of the instalment of the price of the land within the fixed time or do not make payment of the instalments the Authority or Managing Director of the Authority shall have power to impose penal interest in the shape of fine.

(ii) If the entrepreneurs do not establish its unit or take effective steps for establishment of the unit within the time fixed, the Authority or Managing Director will not only cancel the allotted plots/land but also forfeit the instalments paid by the units.

7. Submission of Annual Budget of the Authority under Section 8 of the Act.—(i) The Annual Budget of the Authority for the ensuing financial year shall be prepared and submitted in triplicate to the State Government by the 15th day of October every year together with the tentative programme of work, provision of services and other activities.

(ii) The estimates of receipt and expenditures of the Authority shall be based as far as possible on realistic assessments of the receipts of the Authority including Grants, Loans, Advances etc. under clause (a) of sub-section (1) of Section 7 of the Act as indicated by the State Government to be paid to the authority in the ensuing year and expenditures likely to be incurred for the discharge of the functions of the Authority including those assigned to it by the State Government under clauses (a) and (b) of sub-section (1) of Section 7 and sub-section (1) of Section 8 of the Act.

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(iii) Any expenditure, which is not provided for in the budget or which is against any direction of the Bihar Government issued under sub-section (1) of Section 8 of the Act, will not be incurred except with the prior approval of the State Government.

(iv) The budget submitted by the Authority may be modified by the State Government by giving necessary directions under the provisions of Section 8(1) of the Act.

(v) The Authority may sanction reappropriation of funds from one major head of account to another or within any major head provided that no reappropriation of funds will be made for expenditure on new scheme not included in the budget without the approval of the State Government.

8. Establishment of the Authority under Section 5 of the Act.—Creation of an appointment and promotion to posts carrying a maximum monthly salary of Rs. 840/- and above shall not be made by the Authority except with the prior approval of the State Government.

9. Submission of reports and returns by the Authority to the State Government under Section 14(d) of the Act.—(i) The Authority shall submit to the State Government by the end of June, 30 every year an annual report in the form to be prescribed by the State Government relating to discharge of its duties, powers and responsibilities during statement also of achievement of physical targets and difficulties experienced.

(ii) The State Government may, from time to time, call any report on specific items of work of the authority and the Authority shall submit such report within the stipulated time.

10. Directive by the State Government under Section 14(d) of the Act.—The State Government may, from time to time, issue directions to the Authority laying down principles for fulfilment of aim and objects of the Act, particularly regarding —

- (a) Nature of development work to be undertaken by the Authority.
- (b) Priorities of different development works to be undertaken.
- (c) Nature of services to be provided to Industrial units in the Area and fees chargeable therefor.
- (d) Nature and extent of municipal and other functions to be performed by the Authority as authorised by the State Government from time to time.
- (e) Any other policy matter such as fixation of price of land, allotment of land, realisation of instalments of land etc.

11. Constitution of Screening Committee for advising Industrial Authority.—The Authority may appoint committees to advise it in implementation of its programmes in the matter of planning and formation of its schemes and to help in implementation of scheme.

12. Removal of encroachments and unauthorised structures and demolition of building under Section 14(a) (b) (c) of the Act.—The Authority of Managing Director having been vested with powers under the provisions of the Bihar Land Encroachment Act or any other law for the time being in force with regards to removal of encroachment on the Authority's land and demolition of unauthorised buildings and structures will be guided by the provisions of the concerned enactments and the rules framed thereunder for the disposal of such cases.

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Patna Industrial Area Development Authority Regulations

In exercise of powers conferred by Section 15 of the Bihar Industrial Area Development Authority Ordinance, 1972, the Industrial Area Development Authority with the previous approval of the State Government of Bihar, hereby make the following Regulations—

Chapter I General

1. These Regulations may be called the Patna Industrial Area Development Authority Regulations.
2. **Definitions.**—In these Regulations unless the context otherwise requires—
 - (a) *The 'Ordinance'* means the Bihar Industrial Area Development Ordinance, 1972.
 - (b) *'Rules'* means the Bihar Industrial Area Development Rules, 1972.
 - (c) *'Section'* means a Section of Ordinance.
 - (d) *'Authority'* means the Patna Industrial Area Development Authority.
 - (e) *'Chairman'* means the Chairman of the Authority.
 - (f) *'Meeting'* means a meeting of the Authority.
 - (g) *'Member'* means a member constituting the Authority.
 - (h) *'Managing Director'* means Managing Director of the Authority who will function as Chief Executive of the Authority.

Chapter II

Conduct of Business of the Authority

3. The members of the Authority shall meet for transaction of its business from time to time and shall so meet at least once in every three calendar months.
4. The Chairman of the Authority can call a meeting whenever he thinks fit. A meeting may also be called on a written request by any member of the Authority.
5. The meeting of the Authority shall ordinarily be held in the office of the Authority, but the Chairman may direct the meeting to be held at any other place.
A notice in writing specifying the date, time and place of the meeting will be served on each member at least a week before the date of the notice provided that the meeting may be held on shorter notice to transact business of an urgent nature.
The adjourned meeting may be held at such place, date and time as may be decided by the Chairman and no quorum will be necessary for an adjourned meeting.
6. Three members entitled to vote at a meeting will constitute the quorum without which no business could be transacted at any such meeting.
7. The Chairman, or, in his absence, any member elected by the member present at the meeting shall preside over the meeting.

8. Decisions in the meeting of the Authority will be as far as possible taken on the basis of unanimity, but in case of difference of opinion among the members, decision shall be taken on the basis of majority of members. In the event of equality of votes, the Chairman will have a casting or second vote.

9. Minutes of the proceedings of all meetings shall be recorded in book to be kept for the purpose and shall be signed by the Chairman of the meeting after the minutes have been confirmed in the subsequent meeting.

10. The Authority may invite persons likely to render advice to the Authority with regard to business to be transacted by it, provided that such special invitees or co-opted members shall not have the right to vote at the meeting.

11. The Authority may, from time to time, for the purposes of carrying out its duties and responsibilities under the Ordinance appoint a committee or committees consisting of its own members and refer to them such matters as the Authority may deem fit. Unless specially authorised by the Authority, the decisions of the committee will have to be approved in a meeting of the Authority.

12. The powers and functions of such a committee or committees shall be such as may be determined by the Authority.

Chapter III

Powers and duties of Chairman and Managing Director

13. The Chairman will be the Head of the Authority and—

(a) The Chairman shall preside over the meetings of the Authority and guide its deliberations.

(b) Will do all things necessary for the fulfilment of the objects for which the Authority was constituted.

(c) The Chairman shall guide and supervise the functioning of the Authority and in that capacity will issue such instructions to the Managing Director, the Chief Executive of the Authority as are necessary for the implementation of the decision of the Authority.

(d) The Authority may delegate to the Chairman such other powers as the Authority may deem fit.

14. Subject to the General control of the Authority, the Managing Director shall—

(a) Organise and supervise the office of the Authority, maintain discipline and exercise such other powers with regard to establishment matters like appointment, promotion, disciplinary action, leave to staff etc. as may be delegated to them by the Authority.

(b) Receive and expend, subject to budget provision, moneys on behalf of the Authority and maintain proper accounts, vouchers and receipts thereof.

(c) Perform such other duties as may be specified by Authority on Chairman from time to time.

Chapter IV

15. The Authority will appoint a person to function as secretary of the Authority. His functions will include *inter alia*—

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