

CHAPTER - VII.

SUPPLEMENTARY AND MISCELLANEOUS PROVISIONS.

Power of the Corporation in case of certain defaults by owner of land in industrial area.

35. (1) If the Corporation after holding a local enquiry or upon report from any of its officers or other information in its possession, is satisfied that the owner of any land in an industrial area has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or to carry out any development of the land for which permission has been obtained under this Act the Corporation may serve upon the owner a notice requiring him to provide the amenity or carry out the development within a reasonable time to be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, the Corporation may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that, before taking any action under this sub-section, the Corporation shall afford reasonable opportunity to the owner of the land to show cause as to why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest, at such rate as the State Government may by order fix, from the date when demand for the expenses is made until payment, shall be recoverable by the Corporation from the owner.

Order of demolition of building.

36. (1) Where the erection of any building in an industrial area, industrial estate, commercial estate or growth centre has been commenced or

is being carried on, or has been completed, or any existing building is altered in contravention of the terms on which such building or the land on which it stands is held or granted under this Act, any officer of the Corporation empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order directing that such an erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failures of the owner to comply with the order, the officer may himself cause the erection to be demolished and the expenses of such demolition shall be recoverable by the Corporation from the owner :

Provided that no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order made under sub-section (1) may prefer an appeal against that order within thirty days from the date thereof to the Corporation, and the Corporation may after hearing the parties to the appeal either allow or dismiss the appeal or reverse or vary any part of the order.

(3) The decision of the Corporation on the appeal and subject only to such decision, the order made by the officer under sub-section (1) shall be final.

Power to  
stop building  
operation.

37. (1) Where the erection of any building in an industrial area or industrial estate or commercial estate or growth centre has been commenced, or is being carried on, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Act, any officer of the Corporation empowered in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order

requiring the building operation in relation to such erection to be discontinued on and from the date of the service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under sub-section (1), the Corporation or the officer empowered as aforesaid may require any police officer to remove the person by whom the erection of the building has been commenced and all his assistants and workmen from the place of the building within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) After a requisition under sub-section (2) has been complied with, the Corporation or the officer empowered as aforesaid may depute by a written order, a police officer or an officer, or employee of the Corporation to watch the place in order to ensure that the erection of the building is not continued.

(4) Any person failing to comply with an order made under sub-section (1) shall, on conviction, be punishable with fine which may extend to two hundred rupees for every day during which such non-compliance continues after the service of the order.

(5) No compensation shall be payable to any person for any damage or loss which he may sustain in consequence of any order made under this section.

Penalty for construction or use of land and building contrary to terms of holding.

38. (1) Any person, who, whether at his own instance or at the instance of any other person, undertaken or carries out construction of, or alterations to any building in an industrial area or industrial estate or commercial estate or growth centre, contrary to the terms under which he holds such building or land under this Act, shall on conviction, be punishable with fine

which may extend to ten thousand rupees and in the case of a continuing contravention, with a further fine which may extend to two hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in an industrial area or industrial estate or commercial estate or growth centres contrary to the terms under which he holds such land or building under this Act, or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punishable with fine which may extend to five thousand rupees.

Power to lay  
pipe lines etc

39. (1) Within any area taken up for development under paragraph (b) of clause (ii) of section 14, and for the purpose of (a) carrying gas, water or electricity from a source of supply to, or (b) constructing any sewers, or drain necessary for carrying off the working and waste liquids of an industrial process through any intervening area, the Corporation or any person empowered in this behalf by the State Government by notification (hereinafter in this section referred to as "the authorised person") may lay down, place, maintain, alter, remove or repair any pipes, pipelines, conduits, supply or service-lines, posts or other appliances or apparatus in, under over, along or across any land in such areas.

(2) The Corporation or the authorised person may at any time enter upon any land in any such area and in such event the provisions of section 49 shall, mutatis mutandis apply.

(3) While exercising the power conferred by sub-section (1), the Corporation or the authorised person shall where the land effected in a street, bridge, sewer, drain or tunnel, cause as little damage as possible to such property, and full compensation to all persons interested for

any damage sustained by them in consequence of the exercise or such power as aforesaid shall be paid, as the case may be, by the Corporation or, in the case of the authorised persons, by the State Government.

(4) Nothing in this section shall authorise or empower the Corporation or the authorised person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down :

Provided that nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the State Government in the normal course.

Power of entry.

40. Any officer of the State Government, any member of the Corporation, and any person either generally or specially authorised by the Corporation in this behalf, may enter into or upon any land or building with or without assistance of workmen for the purpose of—

- (a) making any inspection, survey, measurement, valuation or enquiry 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 line of work;

- (e) marking such levels, boundaries and lines by placing marks and cutting trenches;
- (f) doing any other thing necessary for the efficient administration of this Act:

Provided that—

- (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building;
- (ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from such land or building;
- (iii) due regard should always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupant of the land or building entered.

Officers of the Corporation may be vested with other powers

41. The State Government may, by notification, nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the industrial undertakings established or to be established in industrial area, industrial estates or commercial estate or growth centre entrusted to or developed by the Corporation, and no such nomination shall be called into question merely on the ground that such officer is not an officer of the State Government.

Overriding power of Government to issue direction to local authorities.

42. Notwithstanding anything contained in any other law, or in any licence or permit, if the State Government is satisfied either on a recommendation made in this behalf by Corporation or otherwise, that the setting up of an industrial undertaking (whether within an industrial area or outside) is impeded by a local authority's insistence on conditions which the State Government considers

unreasonable for the grant of any amenity, the State Government may direct the local authority to grant the said amenity on such conditions as the State Government may consider fit and thereupon the amenity shall be granted :

Provided that the charge to be paid for granting or continuing such amenity to the local authority concerned shall not be less than the cost incurred by the local authority or licenses concerned for providing such amenity:

Provided further that no such direction shall be issued by the State Government without giving the local authority a reasonable opportunity to show cause against the proposed direction.

Restriction on lease permission in adjoining areas in certain cases.

43. If any person or Company applies to the Collector or any other competent authority for lease of Government land or for permission to convert Agricultural land into non-agricultural use for setting up of an industrial undertaking or for locating a brick kiln guary or for any other use which may be detrimental to the orderly growth of an industrial area or industrial estate or commercial estate or growth centre and if such Government land or agricultural land is situated within a radius of five kilometres of the outer boundary of the said industrial area or estate, the collector or the competent authority shall not grant such lease or permission without prior consultation with the Corporation:

Provided that where the Collector or the competent authority overrides the objection of the Corporation he shall give reasons therefore in writing to the Corporation, whereupon the Corporation may appeal to the prescribed authority :

Provided further that no action shall be taken on the order of the Collector or the competent authority till such appeal is disposed of :

Provided also that the provisions of this section shall not apply to any village industry, cottage industry or tiny sector industry.

Explanation :—For the purposes of this Section :—

- (i) the expression “village industry” and “cottage industry” shall have the same meaning as assigned to them by the Government;
- (ii) “tiny sector industry” shall mean such industry as may be declared by the State Government from time to time to be a tiny sector industry.

Notices etc.  
to fix reason-  
able times.

44. Where any notice, order or other document issued or made under this Act, or any rule or regulation made thereunder, requires anythings to be done for the doing of which no time is fixed in this Act or the rule or regulation, the notice order, or other document shall specify a reasonable period of time for doing the same or complying therewith.

Furnishing  
of returns,  
etc.

45.(1) The Corporation shall furnish to the State Government returns, statistics, reports, accounts and other information with such respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the State Government may from time to time require.

(2) The Corporation shall, in addition to the audit report referred to the section 27, furnish to the State Government an annual report of its working as soon as may be after the end of each financial year in such form and with such details as may be prescribed and a copy of the annual report shall be placed before the State Legislature as soon as may be after it is received by the State Government.



transfer of  
existing areas,  
estates and  
centres to the  
Corporation.

46. The State Government may by notification and subject to such terms and conditions as may be specified therein, place any industrial area or industrial estate, commercial estate, growth centre established prior to the date of commencement of this Act under the management and control of the Corporation and thereupon the provisions of this Act, shall apply to such industrial area, industrial estate, commercial estate and growth centre as if the industrial areas were declared and the industrial estate, commercial estate and growth centre were established under this Act.

Withdrawal  
of area or  
estate or part  
thereof.

47. Where the State Government is satisfied that with respect to any particular industrial estate or industrial area, or any part thereof, the purpose for which the Corporation was established under this Act, has been substantially achieved so as to render the continued existence of such estate or area or part thereof under the Corporation unnecessary, the State Government may, by notification declare that such industrial estate or industrial area or part thereof has been removed from the jurisdiction of the Corporation. The State Government may also make such other incidental arrangement for the administration of such estate or area or part thereof as the circumstances require.

Dissolution  
of Corpora-  
tion.

48. (1) Where the State Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the State Government unnecessary, it may, by notification, declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification and the Corporation shall be deemed to be dissolved accordingly.

(2) From the said date —

(a) all properties, funds and dues which are vested in or realisable by, shall vest in or be realisable by, the State Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the State Government.

Authority for prosecution.

49. Unless otherwise expressly provided no Court shall take cognisance of any offence relating to any property belonging to or vested by or under this Act, in the Corporation, punishable under this Act, except on the complaint of, or upon information received from, the Corporation or some person authorised by the Corporation by general or special order in this behalf.

Compensation of Offences by Corporation.

50. (1) The Corporation or any person authorised by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence punishable by or under this Act.

(2) Where an offence has been compounded the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

Offences by companies.

51. (1) Whenever an offence under this Act, has been committed by a company, every person who at that time the offence was committed was in charge of, or was responsible to 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 under this Act if he proves that the offence was committed without his knowledge and 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 of, or is attributable to any neglect on the part of any director, manager secretary or other officer of the company, such director,

manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—for the purposes of this section—

- (a) “company” means any 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.

Penalty for obstruction.

52. Any person who obstructs the entry of a person authorised under Section 49 to enter into or upon any land or building or molestes such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Recovery of dues.

53. Any money payable to the Corporation in respect of which the person liable to pay the same has agreed by a written instrument that it shall be recoverable as a public demand, shall, on an application made by the Corporation in that behalf, be recoverable as such demand.

Power to make rules.

54. (1) The State Government, may by notification, make rules to carry out the purposes of this Act:

Provided that where the State Government feel it necessary, it shall except on the first occasion of making rules under the section, take into consideration any suggestion made by the Corporation relating to amendment of such rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

provide for all or any of the following matters, namely:—

- (a) the fees and allowance payable to the directors of the Corporation ;
- (b) the conditions of appointment and service and the scale of pay of the Managing Director of the Corporation;
- (c) the conditions subject to which the Corporation borrow money ;
- (d) the date by which the annual financial statement and programme of work shall be submitted by the Corporation to the State Government and the form and manner of preparing such statement referred to in section 27 ;
- (e) the form and the manner of maintaining books accounts and other books under section 28 ;
- (f) the form of, and the details to be given in the annual report under section 45 ;
- (g) the fees which may be charged by the Corporation ;
- (h) the conditions subject to which the Corporation may dispose of land, buildings and amenities ;
- (i) any other matter which has to be or may be prescribed.

(3) All rules made by the State Government under an Assam Act shall, as soon as may be after they are made, be laid before the State Legislature, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall unless some later date is appointed, take effect

from the date of their publication in the official Gazette subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

Power to  
make regu-  
lation.

55. (1) The Corporation may, with the previous approval of the State Government, make regulation consistant with this Act, and the rules made thereunder, to carryout the purposes of this Act and without prejudice to the generality of this power, such regulations may provide for :---

(a) the time and place of meetings of the Corporation and the procedure to be followed in regard to do the transaction of business of such meetings to be provided ;

(b) the conditions of appointment and service and the scales of pay of officers and employees of the Corporation other than the Managing Director ;

(c) deployment of funds of the Corporation and the officers of the Corporation who may operate its accounts ;

(d) the terms under which the Corporation may dispose of land, buildings and amenities ;

(e) the additional terms and conditions subject to which lands and building industrial area, industrial estate, commercial estate and growth centre, may be held or used ;

(f) the procedure and conditions of allotment of premises and modification cancellation and recession thereof ;

(g) the manner of publication of public notice and the manner of Service of Notices, Orders, Documents of the Corporation ;

(h) any matter which has to be or may be provided by regulation.

(2) All regulation made by the Corporation under the Act shall as soon as may be after they are made, be laid before the State Legislature, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall, unless, some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

Protection of action taken in good faith

56. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Members Officers and Staff of Corporation to be Public Servants.

57. The members of the Corporation and the Officers and employee of the Corporation shall, when acting or perporing to act, in pursuance of any of the provisions of this Act be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Effect of Provisions inconsistent with other laws.

58. The provision of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to remove doubt and difficulties.

59. If any doubt or difficulty arises in giving effect to the provisions of this Act, State Government may, by order make provision or give such direction not inconsistent with the express provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty and the order of the State Government, in such cases, shall be final :

Provided that no such order shall be made or direction shall be given after the expiration of a period of two years from the date of commencement of this Act.

K. LASKAR,  
Secretary to the Govt. of Assam,  
Legislative Department.