

## TALCHER THERMAL POWER STATION (ACQUISITION AND TRANSFER) ACT, 1994

The Odisha . Gazette err EXTRAORDINARY PUBLISHED BY AUTHORITY f ORISSA ACT -7 OP 1995 TALCHER THERMAL POWER STATION (ACQUISITION AND TRANSFER) Acr. Recieved the assent of the P,csidcat th,• 3rd [1995 first published in ao eitraordinety isaae of the Hssa Gazmre, dated the 18th May J AN ACT TO •r:B iCQdISITION TRANSFdR OF THE • RIGHT, AND INTERESr OF ORISSA S! ATE ELECTRICITY BOARD -m RELATION TO TALCHER TH8RMAL POWER STATION SITUATED AT 'TALCHER THB orsrR1cr OF ANGUL 0.3 TO CARRY OUT RBNOvATION AND MODERNISATION AND. TO ACHIEVE EXTENSION OF THE SAID POWER FOK CONNECTBD TBERE- WITH INCIDENTAL THERETO. Wherea.s, the Talcher Tüei'n.rat Power Station is wholly owned and managed by the Orissa Electricity Board\* a body constituted by tne State Government under (S..pp!y) Act, a total generating capacity of 460 MW Of And whereas, the said Power Station has not able, due to financial and technical constraints, to'opcta{e contintiDBsly at its optimum capacity loss in generation of electriqity; And whereas. the said Bo-Md or the State Govemmnt is not in a position to provide addltlool funds necessa,-y to gellieve the optimum production- It is hereby enactpd by the Lrgislature of the State of Oriæa in the Borty-fifth Year of the Of India ns CHAPTER PRELiMmARY 1. ThiQ Al"t\_ may be called the Talchec Thormal Poger Station (Acquisition and Shon title Trans\*)' Act. 1994. meat. (2) It 8hBJI come into force on such date as the State Government may, by notification, appoint in this behalf. 2, In tk.'s Act, u-n-!ess the'ccontext otheryise requires,— (a) "appointed day" means the date of com.mgncemenC Of thie Act; (b) "Board" means the Orissa State Electricity Board constituted under the "of I.N8. Electricity (Supply) Act, 1948; .(c) "Commissioner" means the Commissi oner appointed undet section 16; (d) "Corporatioh" means the National Thermal Power Corporation Ltd., a Government company within the meaning of the Companies Act, 1956, i of 195% and having its registered omce at 7. Institutional \*ea, NTPC Bhawan, Core-7, Sc;cpe Complex, Lodi Road, New Delhi-110003; (e) "Power Station" means the Talcher Therma( Power Station including associated facilities, etc. of the Board, situated at Talcher in the district of Angul; words and expressions used herein but not defined in this Act and defined in the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 90f 1980• 64 of 134B • sh8)1 have the meaning respectively assigned to tham in those Acts. CHAPTER ACQUISITION AND TRANSFER OF POWER STATION 3. On the •ttppoited day, (Bc Power Station and the light, title and interest of Trusfer to and the Boald in relalion thereto shall, by virtue of this Act, (stand transferred to, and in the State -vest in, the State Government. Government of the Power Station. of vesting. 4. (1) The Power' Station shall be deemed to include all properti\$ and assets, rights, leaseholds, powers, authorities and privileges and all property movable and immovable inchudino Tands, buildings, offæes, stores, ilants, machinery and equipmonts •For the Bill See Orissa Gazerre, Extraordinary, dated lhe 14th December 1994 (No. 160 8)- 11 installation's, •fnstruments, omce furniture, stationery. and office equipment\* vehicles, 8taff.quacters, workers' colonies together with amenities and inzaltations p&taining thereto, and other rights and intetests in, or arising out of, such properties and as-,els as were inunediatly before the appointed. day in the ownership, posieession, power rand control of the Board ia relation to the Power Station whether within .or outside the State of Orissa and all books of accounts, registers and other documents •whatsoever nature relating but not to include cash in hand; cash at bank, investments, book debts other than outqanding advances for ptccurement of m'ater•al,; and equipments for the Power Station) or rights, liabilities and obligations respecting any other contract or Memorandum of understanding or •agrepment. entered into by the Board or the State Goiernment. --.(2) If on the appointed day, any suit, appeal or other proceeding of. whatsoever nature in relation to any property or a-set which ha3 vested in the State Government under section 3, instituttd or preferred by or against the Board in relation to the 'Power Station, is. pending, the same shall not abate, be die:continued or be, in any way, prejudicially affected by reason of the transfer of the Power Station or of anything contained in this Act but the suit, appeal or othec proceeding may be coniinued, prosecuted or enforced by or against the State Government or, whete the '-Power Station vests in the Corporâtion, under section 5. -by or against the subject to the provisions of section 6. 5. (1) The Power Station vested in the State Government under section 3 shale Vest tng of the Power on such date as the State Government may, by notification. specify in this behalf Station in vest in the'Corporalion free from pall- encumbrances and thereafter, the Corporation tye shall become

the owner of the Power Station: Provided that no such notification shall be made unless a resolution passed by the Corporation for the purpose conforms with the provision of this Act is communicated to the State Government. (2) Land measuring 21602 acres acquired for Ash Pond in Talcher, in the district of Angul, shall stand transferred to the Corporation, free from all encumbrances, after due physical possession of the land

**6. No liability of the Board in relation to the Power Station incurred prior to the appointed day and no award, decree or order of any Court or tribunal or the Corporation not to or other authority in relation to the Power Station passed after the appointed day be liable for in respect of, any matter, claim or dispute which arose before that day, shall be prior liability enforceable against the Corporation.**

**CHAPTER IV. PAYMENT OF AMOUNT**

**7.** For the transfer to, and vesting in, the State Government, under section 3, Payment of amount by the Power Station and the right, title and interest of the Board in relation to the State Power Station, there shall be given by the State Government to the Board such sum, amount as may be determined in the manner specified in Chapter VI. Payment of

**8. (1)** For the transfer to, and vesting in, the Corporation, under section 5, of amount by the Power Station and the right, title and interest of the State Government in the Corporation in relation to the Power Station, there shall be paid by the Corporation, to the State Government, amount and in such manner as is specified in the Schedule. (2) The State Government may, after consultation with the Corporation, by notification, make suitable changes in the amount and the manner of its payment specified in the Schedule, and on publication of the notification in the Gazette, the Schedule shall stand amended accordingly

**CHAPTER V. DELIVERY OF POSSESSION**

**9. (1)** Any person who has, on the appointed day, in his possession or under his control, any asset, books, documents or other papers relating to the Power Station which has vested in the State Government or the Corporation under this Act, shall be liable to account for the said assets, books, documents and other possession papers to the State Government or, as the case may be, to the Corporation and shall deliver them to the State Government or the Corporation to such person or persons as the State Government or the Corporation may specify in this behalf.

**(2)** The State Government or, as the case may be, the Corporation, may take or cause to be taken all necessary steps for securing possession of the Power Station which vested in the State Government, or the Corporation under this Act.

**(3)** The Board shall, within such period as the State Government may allow in this behalf, furnish to the State Government a complete inventory of all its properties and assets, both movable and immovable, as on the appointed day, pertaining to the Power Station which has vested in the State Government under section 3 and for this purpose, the State Government or the Corporation shall afford to the Board all reasonable facilities

**CHAPTER V PROVISIONS RELATING TO EMPLOYEES OF THE POWER STATION**

**Absorption 10. (1)** Every person who has been, immediately before the appointed day, a regular employee of the Power Station, shall, on and from the appointed day, be deemed to be on deputation with the State Government on the same terms and conditions, subject to the provisions contained in sub-section (2).

**(2)** On the vesting of the Power Station in the Corporation under section 5, the Corporation shall, save as otherwise provided, absorb the employees of the Board working in the Power Station, in the following manner:—

**(a)** Subject to the provisions of clauses (b) and (c) of this sub-section and sub-sections (3) and (4), all the employees on the regular rolls of the Power Station shall be absorbed in the Services of the Corporation. Who may, with a view to achieving better productivity and efficiency, redeploy them in Talcher Super Thermal Power Project or in any other Project or Power Station belonging to them and such employees absorbed in the services of the Corporation shall be governed by the Rules and Regulations of the Corporation in force from time to time.

**(b)** Officers in the rank of Executive Engineer and above, whatever designation they hold, shall be retained by the Board for deployment in other activities of the Board or the State Government.

**(c)** Officers in the rank of Assistant Engineer, whatever designation they hold, shall be kept on deputation with the Corporation, and their absorption in the Corporation or repatriation to the Board or the State Government shall be regulated in the following manner:—

**(i)** twenty-five per centum of them shall be absorbed, in order of their suitability as may be determined by the Corporation, during the first year of vesting of the Power Station in the Corporation; **(ii)** twenty-five per centum of them shall be repatriated to the Board during the first year of such vesting for deployment in the Board or under the State Government Departments; **(iii)** further twenty-five per centum of them shall be absorbed in order of

their suitability as may be determined by the Corporation» during the second- and third years of such vesting (that is 15% in second year and in the third year) ; the remaining twenty-five per centum of the officers shall be repatriated to the Board during the second and third years of such vesting for redeployment to the Board or under the State Government Departments. (3) All Stipendiary Engineers in employment in the Power Station immediately the appointed day, shall be retained by the Board. (4) Notwithstanding anything in the preceding sub-sections, employees appointed, if any, in the Power Station after the 11th October 1994 shall be retained by the Board. 12. (1) Every employee of the Power Station absorbed in the Corporation shall Term\* bold omees or render service under the Corporation on the same terms and conditions of service of employees of the Corporation and with the same rights and privileges as to pension, gratuity, leave and other Power Station matters, as would have been applicable to him immediately before such vesting, till the date of his employment under the Corporation is duly terminated or until his remuneration is varied in accordance with the conditions of service as a package are duly altered by the Corporation to his advantage. 19 (2) The financial liabilities of the Board in relation to the employees absorbed by the Corporation on account of the matters referred to in sub-section (1) for the services tendered under the Board shall be computed till immediately preceding the date of vesting of the Power Station with the Corporation and the amount shall be paid to the Corporation as soon as the employees are absorbed, Reversion of 12. Any person who was on deputation to the Power Station from any other deputation organisation immediately before the appointed day shall, on that day, be deemed to have been reverted to his parent organisation. Status of 13. Any person referred to in sub-clauses (i), (ii), (iii) and (iv) of clause (c) of sub-section (2) of section 10 shall, on the date of vesting of the Power Station with the Corporation, be deemed to be on deputation with the Corporation on the same terms and conditions of service as were applicable to him before such vesting, unless within the time he is absorbed in the service of the Corporation or repatriated to the Board, as the Corporation may determine. Employee' 14. Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force, the transfer of the services of any employee of the Power Station to the Corporation shall not entitle him to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority. Transfer of 15. Where the Board has established a provident fund or any other fund for the provident benefit of the persons employed by it in the Power Station, the moneys relating to the fund money the employees who are absorbed by or under this Act in the Corporation, standing to the credit of such funds, shall, on the date of vesting of the Power Station in the Corporation, stand transferred to the Corporation. CHAVITR VI DETERMINATION OF PAYMENT BY THE STATE GOVERNMENT 16. (1) The State Government shall, for the purposes of determining the amount payable to the Board for acquisition of the Power Station by the State Government, determine the amount of compensation payable to the employees of the Power Station and for its disbursement, appoint, by notification, a Commissioner of Payments. (2) The State Government may appoint such other persons as it may think fit to assist the Commissioner. 17. (1) The Commissioner shall, so far as may be, within six months from the date of the notification under Section 16, determine the amount payable by the State Government to the Board for acquisition of the Power Station. take into (2) In determining such amount, the Commissioner shall consider the value of all assets and properties, pertaining to the Power Station as have vested in the State Government under Section 3, and such other matters as may be relevant for the purpose. (3) The amount so determined shall be intimated by the Commissioner to the State Government, whereupon the State Government shall, after deducting the amount owed to it by the Board, make available the balance amount to the Board. CHAPTER VII MISCELLANEOUS 18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority

**19. Any person who—**(a) having in his possession, custody or control any property forming part of the Power Station wrongfully withholds such property from the Corporation ; or (b) wrongfully obtains possession of, or retains, any property forming part of the Power Station or Offence by the Board or a Company. Offence or taken In good faith. Power to make rule. Power to remove 20 (c) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the Power Station which may be in his possession,

custody or control ; or (d) fails to deliver to the Corporation of any person or body of persons specified by the Corporation, any assets, books or accounts, registers or other documents in his possession, custody or control relating to the Power Station, shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees. 20. (1) Where an offence punishable under Section 19 has been committed by the Board or a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the Board or company, as the case may be, for the conduct of its business as well as the Board or the company, as the case may be, 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 subsection shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under Section 19 has been committed by a company and it is proved that the offence was 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 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. 21. No suit, prosecution or other legal proceedings shall lie against the State Government or any person, for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder. 22. (1) The State Government may, by notification, 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 all or any of the following matters, namely:— (a) the detailed manner in which, in which the amount is, to be paid under sub-section (1) or sub-section (2) of Section 8; (b) the manner in which the moneys in any provident fund or other fund referred to in Section 15 shall be dealt with for the purpose of that section; (c) any other matter as may be considered expedient to be provided. 23. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions, not exceeding the substance of this Act, as appears to it to be necessary or expedient for removing the difficulty. (2) No order under sub-section (1) shall be made after the expiration of the period of two years from the commencement of this Act. (3) Every order made under subsection (1) shall be laid as soon as may be, before the State Legislature and the provisions of the Orissa General Clauses Act, Orissa Act 1937 shall apply as they apply in respect of rules made by the State Government under any Orissa Act. 21 SCHEDULE (See Section 8 ) 1. The amount payable by the Corporation as referred to in Section 8 shall be three hundred and fifty-six crore rupees

**2. Such amount shall be paid in the following manner, namely:—**(a) Rupees one hundred shall be paid to the State Government of Orissa at the time of vesting the Power Station with the Corporation. (b) The balance rupees hundred and fifty-six crores shall be paid as follows:— (i) by adjustment of the outstanding dues of the Corporation against the Board on account of sale of energy and surcharge for delayed payment, as on the date of vesting of the Power Station with the Corporation ; and (ii) after such adjustment, the balance amount shall be paid in five consecutive equal annual instalments which shall carry interest liability at the rate of fourteen per centum per annum on the Corporation. The payment of instalments along with the interest shall commence on the expiry of one year from the date of the down payment of rupees one hundred crores as mentioned at (a) above. In case of non-payment by the Board or its successors, of electricity dues, if any, for more than three months, of any Corporation station, the Corporation shall be entitled to appropriate those dues from the Board against its dues to the State Government after due reconciliation of the Corporation accounts with the Board accounts. 35 ORISSA ACT 3 OF 1996 \*THE TALCHER THERMAL POWER STATION ( ACQUISITION AND TRANSFER) AMENDMENT [Received the assent of the Governor on the 1st February 1996 first published in an 'extraordinary' issue of the Orissa Gazette dated the 6th February 1996] AN Act TO AMEND THE TALCHER THERMAL POWER STATION (ACQUISITION AND TRANSFER) ACT, 1994 Enacted by the Legislature of the State of Orissa in the Forty-third Year of the Republic of India as follows:— 1. This Act may be called The Talcher Thermal Power Station (Acquisition and Transfer) Amendment Act, 1995. 2. In the Talcher Thermal Power Station (Acquisition and Transfer) Act, 1994 Ray of Amendment

of Section for section 18, the following Section shall be substituted, namely:— 1995. 18. "18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Code of Civil Procedure, 1908, the 5 of 1908 Transfer of Property Act, 1882 and the Registration Act, 1908\* or in 40T 1882 16 any other State law for the time being in force, or in any instrument having effect by virtue of any of the said laws, other than this Act, or in any decree or order of any court, tribunal or other authority.9'. For Bill See Orissa Gazette. Extraordinary, dated the 23rd November, 1994 (No. 1319)

