



The Orissa Express Highway Act, 1964

Act 8 of 1964

Keyword(s):
Express Highway

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ORISSA ACT 8 OF 1964
THE ORISSA EXPRESS HIGHWAY ACT, 1964

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ORISSA ACT 8 OF 1964

[THE ORISSA EXPRESS HIGHWAY ACT, 1964]

[Received the assent of the Governor on the 1st
May 1964, first published in an extraordi-
nary issue of the Orissa Gazette,
dated the 7th May 1964]

AN ACT TO PROVIDE FOR THE CONSTRUCTION,
MAINTENANCE AND DEVELOPMENT OF ROADS
FOR SPECIAL PURPOSES AND SPECIAL
KINDS OF TRAFFIC AND MATTERS
INCIDENTAL THERETO

BE it enacted by the Legislature of the State of
Orissa in the Fifteenth Year of the Republic of
India, as follows :—

1. (1) This Act may be called the Orissa Express
Highway Act, 1964.

Short title,
extent and
commence-
ment.

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

(3) It shall come into force² on such date as the
State Government may, by notification, appoint.

2. In this Act unless the context otherwise
requires—

Definitions

(a) “express highway” means any road declar-
ed to be an express highway in accordance with the
provisions of section 3 and includes—

(i) any land acquired or demarcated with a
view to constructing an express highway
along it;

(ii) the slopes, berms, borrow-pits, foot-paths,
pavements and side and catch and bound-
ary drains attached to such road;

(iii) all bridges, culverts, causeways, carriage-
ways or other structures built on or
across such roads; and

1. For Statement of Objects and Reasons, see *Orissa Gazette*, Extra-
ordinary, dated the 9th September 1963 (No. 08) and for Report of Select
Committee, see *ibid.*, dated the 12th March 1964 (No. 472).

2. Came into force with effect from the 1st August 1967—vide Noti-
fication No. 12597-EW-11M-53/67, dated the 20th July 1967, published in
Orissa Gazette, dated the 11th August 1967, Pt. III, p. 998.

(Secs. 3—5)

- (iv) the trees, fences and posts and boundary, furlong and mile stones and other highway accessories and materials stacked on the road; and

(b) "prescribed" means prescribed by rules made under this Act.

Declaration
of express
highway.

3. (1) Whenever in the opinion of the State Government it is expedient in the public interest to provide for special communications for the transport of any particular class of goods, or for any particular class of vehicles, or any particular class of traffic the State Government may—

- (a) by notification declare any road constructed for such purposes, defining the limits thereof, to be an express highway and in like manner alter the said limits;
- (b) from time to time alter or modify all or any of the purposes for which such express highway may be used; and
- (c) specify from time to time the extent to which such user shall be to the exclusion of any other user of the road as a highway.

(2) All notifications issued under this section shall, as soon as they are issued, be laid before the State Legislature for a period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Legislature may make therein during the said period.

Restrictions
on the right
of user.

4. Notwithstanding anything to the contrary in any other law or in any practice, custom or usage no right of user in respect of an express highway shall be exercised except in accordance with the provisions of this Act and the rules, orders and directions made or issued thereunder.

Regulation
of user by
permits and
licences.

5. The State Government may from time to time having regard to the specific purposes required to be served by any express highway and with a view to securing safety of traffic thereon and the prevention of damage thereto—

(Sec. 6)

- (a) require permits and licences to be taken out by persons using any express highway in such form and manner, subject to such terms and conditions and on payment of such fees, if any, as may be prescribed :

Provided that no fees shall be required to be paid in respect of a person using such highway as a pedestrian;

- (b) subject to such conditions as may be prescribed, prohibit or restrict the plying of vehicles of any laden weight on or over such express highway or such part thereof as is not designed to carry such vehicles ;
- (c) close the express highway or any portion thereof for such period or periods as they deem fit for effecting repairs or protective works in respect of all or any class of traffic;
- (d) impose minimum or maximum limits and other reasonable restrictions in respect of speed or laden weight of vehicles ; or
- (e) otherwise control and regulate the user of such express highway so as to facilitate the unimpeded flow of such traffic for which the highway is mainly designed or for the time being is specially intended to subserve.

6. (1) The State Government may, in accordance with the rules to be made in that behalf, levy such rates of toll as they may, from time to time declare by notification in that behalf, ^{Levy of tolls} [for the carriage of any goods or for the passage of any vehicle or animal] upon any express highway or portion thereof constructed, developed or maintained by the State Government and different rates of toll may be levied in respect of different express highways, or different portions thereof:

1. Substituted by the Orissa Express Highway (Amendment) Act, 1970 (Or. Act 27 of 1970), s. 2 (a).

(Sec. 6—contd.)

Provided that no toll shall be levied in respect of any overbridge constructed on or across an express highway or in respect of any crossing thereon approved by the prescribed authority.

(2) The collection of such tolls may be placed under the management of such persons, subject to such terms and conditions as the State Government may deem fit and proper.

¹ [(2-a) The State Government may in such circumstances and subject to such conditions as may be prescribed and upon application made in that behalf by the owner of any goods, vehicle or animal in respect of which toll is leviable under sub-section (1), permit such owner to compound the toll payable in respect of the goods, vehicle or animal by paying in lieu thereof a sum fixed in such manner as may be prescribed.]

(3) In case of non-payment of any such toll on demand, the officers appointed to collect the same may seize ²[the goods, vehicle or animal, as the case may be, on which the toll is chargeable or may seize any part of the goods or any part of the burden carried by the vehicle or animal] of sufficient value to defray the toll ; and, if any toll along with the cost arising from such seizure, remains undischarged for twenty-four hours, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll, and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property, and the said officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday, or any closed holiday, he will sell the property by auction:

Provided that, if, at any time before the sale has actually begun, the person whose property has

1. Inserted by the Orissa Express Highway (Amendment) Act, 1970 (O. Act 27 of 1970), s. 2 (b).

2. Substituted by *ibid.*, s. 2 (c).

(Sec. 6—contd.)

been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

[(4) No toll shall be paid for the passage of—

- (a) vehicles belonging to or in the service of the Military, Naval or Air Forces of the Union;
- (b) any fire service or ambulance vehicle; or
- (c) vehicles belonging to the Police Department of the State Government while carrying police officers on duty.]

(5) All Police Officers shall be bound to assist the toll collectors, when required, in the execution of this Act; and, for the purpose, shall have the same power which they have in the exercise of their common police duties.

(6) Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll in respect of any express highway and also every person who shall unlawfully and extortionately demand, or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act shall be liable on conviction before a Magistrate to imprisonment for any term not exceeding six calendar months, or to fine not exceeding two hundred rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved; but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court.

1. Substituted by the Orissa Express Highway (Amendment) Act, 1970 (Or. Act 27 of 1970), s. 2 (d).

(Secs. 7-9)

[(7) The proceeds of all tolls levied under this Act in respect of any express highway shall be utilised in meeting the expenses incurred by the State Government in the construction, maintenance and development of that highway and for purposes ancillary or incidental thereto.]

Delegation of powers.

7. The State Government may, by notification, delegate their powers under all or any of the provisions of this Act except clause (a) of sub-section (1) of section 3, section 5, section 11 and section 14 to be exercised by any officer or authority as the State Government may deem fit :

Provided that in exercise of such powers the officer or authority concerned shall remain subject to the control of the State Government and to such directions as they may issue from time to time in that behalf.

Penalty

8. Any person found guilty of—

- (a) contravention of any of the provisions of this Act or any rule or order made thereunder ; or
- (b) wilful disobedience of any directions issued or of any prohibition or restriction imposed under the said provisions or in pursuance thereof ; or
- (c) causing any damage to or obstruction on any express highway,

shall on conviction be punished with fine which may extend to five hundred rupees, and in cases falling under clause (c) shall in addition be liable to pay the cost of repair of such damage or the cost of removal of such obstructions, as the case may be.

Compounding of offences.

9. An offence committed by any person under this Act may be compounded by any officer or authority, specially empowered by the State Government in that behalf, on payment of such sum as such officer or authority may determine and on payment thereof—

- (a) no proceedings shall be commenced against such person ; and

(Secs. 10—13)

- (b) if any proceedings have already been commenced against such person such proceedings shall not be further proceeded with.

10. No suit, prosecution or legal proceedings shall be instituted against any authority or officer or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or orders made thereunder. ^{Bar of suits etc.}

11. (1) The State Government may, by notification and subject to the conditions of previous publication, make rules* to carry out the purposes of this Act. ^{Power to make rules.}

(2) All rules made under this section shall, as soon as they are made, be laid before the State Legislature for a period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Legislature may make therein during the said period.

12. (1) On and after the declaration of a road as an express highway under clause (a) of sub-section (1) of section 3, the provisions contained in any other law or any practice, custom or usage having the force of law, corresponding to any of the provisions of this Act, and applicable to such road, shall cease to have effect for so long as such declaration remains in force. ^{Act to override other laws.}

(2) Save as provided in sub-section (1) the provisions of this Act and the rules and orders made thereunder shall have effect notwithstanding anything to the contrary contained in any other law or practice, custom or usage having the force of law, for the time being in force.

13. Nothing contained in this Act shall—

^{Savings}

- (a) have effect so as to override any of the provisions of the National Highways Act, 1956 ; or
- (b) affect the rights of any local authority to make any excavation for the purpose of

* For rules—see Notification No. 14847, dated the 25th August 1967 published in *Orissa Gazette*, Extraordinary, dated the 31st August 1967 (No. 1150).

(Sec. 14)

laying, making, altering, repairing or renewing any sewer, drain, water course or other work ; or

(c) affect the rights of any authority under any law for the time being in force to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main pipe, sluice, weir, electric line, duct, drain or other apparatus in respect of gas, water, electricity, railways, tramways or trolley vehicles ; or

(d) affect the powers of the telegraph authority under the provisions of the Indian Telegraph Act, 1885.

13 of 1885

Removal of
difficulties.

14. If any difficulty arises in giving effect to the provisions of this Act the State Government may, by order, do anything not inconsistent with the provisions of this Act or the rules made thereunder which appears to them to be necessary for the purposes of removing the difficulty.