



The Niramoy Group of Institutions Acquisition Act, 1982

Act 16 of 1982

Keyword(s):

The Institution, Board of Directors, Company, Director, Joint Sector Company, New Joint Sector Company

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West Bengal Act XVI of 1982¹

THE NIRAMOY GROUP OF INSTITUTIONS ACQUISITION ACT, 1982.

AMENDED

.. [West Ben. Act XVIII of 1991.
.. [West Ben. Act XVIII of 2001.

[12th October, 1982.]

An Act to provide for the acquisition ²[and transfer] of the Niramoy Group of Institutions in the public interest and for proper management thereof.

WHEREAS it is expedient to provide for the acquisition ³[and transfer] of the Niramoy Group of Institutions in the public interest and for proper management thereof;

It is hereby enacted in the Thirty-third year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Niramoy Group of Institutions Acquisition ⁴[and Transfer] Act, 1982.

Short title
and
commence-
ment.

(2) It shall be deemed to have come into force on the 27th day of August, 1982.

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

Definitions.

- (a) "appointed day" means the date on which this Act comes into force;
- (b) "the Institution" means the Niramoy Group of Institutions, namely, the Niramoy T.B. Sanatorium, Giridanga in the district of Birbhum, the Niramoy Polyclinic and Research Foundation, Gariahat Road, ⁵[Kolkata]-19, the Niramoy Chest Clinic, 70, Ganesh Chandra Avenue, ⁵[Kolkata]-13 and the Niramoy Chest Clinic, 2, Asutosh Mukherjee Road, ⁵[Kolkata]-20, together with the indoor beds and provisions for outdoor services and dispensaries attached thereto and used in connection therewith and includes all lands and buildings, equipments, stores, drugs and other articles used in connection therewith as accessories to or adjuncts of the said Niramoy Group of Institutions run under the auspices of the General Council of Niramoy with head office at 78/1, Rafi Ahmed Kidwai Road, ⁵[Kolkata]-13;

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV of the 22nd September, 1982 (Bill No. 18 of 1982); for proceedings of the West Bengal Legislative Assembly, see the proceedings of meeting of that Assembly held on the 5th October, 1982.

²The words within the square brackets were inserted by s. 2 of the Niramoy Group of Institutions Acquisition (Amendment) Act, 1991 (West Ben. Act XVIII of 1991).

³The words within the square brackets were inserted by s. 3, *ibid.*

⁴The words within the square brackets were inserted by s. 1, *ibid.*

⁵The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

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(Sections 3, 4.)

- ¹(b1) "Board of directors" has the same meaning as in clause (6) of section 2 of the Companies Act, 1956;
- ¹(b2) "company" means a company as defined in section 3 of the Companies Act, 1956;
- ¹(b3) "director" has the same meaning as in clause (13) of section 2 of the Companies Act, 1956;
- ¹(b4) "existing joint sector company" means a joint sector company which is carrying on business on the date of coming into force of the Niramoy Group of Institutions Acquisition (Amendment) Act, 1991;
- ¹(b5) "joint sector company" means a company in relation to which fifty per cent. of directors of the Board of directors is nominated by the State Government;
- ¹(b6) "new joint sector company" means a joint sector company formed and registered on or after the date of coming into force of the Niramoy Group of Institutions Acquisition (Amendment) Act, 1991;
- (c) "notification" means a notification published in the *Official Gazette*;
- (d) "prescribed" means prescribed by rules made under this Act.

1 of 1956.

Institution to vest in the State Government.

3. On and from the appointed day the Institution shall, by virtue of this Act, be transferred to, and vest in, the State Government.

General effect of vesting.

4. (1) The Institution shall be deemed to include all rights, powers, authorities and privileges related to, and properties movable or immovable, cash balances, reserve fund and other assets of, the Institution including lands, buildings, works, machinery, furniture, plants, laboratories, libraries, dispensaries, apparatus, tools, instruments, implements which may be in the ownership, possession, custody or control of the Institution immediately before the appointed day and all books of accounts, registers and all other documents of whatever nature relating thereto.

(2) Every deed of gift, endowment, bequest or trust or other documents relating to any property and assets referred to in clause (b) of section 2 or sub-section (1) of this section shall be construed as if it were made or executed in favour of the State Government.

(3) Properties which vest in the State Government under this Act shall, by virtue of the vesting, be freed and discharged from any trust, obligations, mortgages, charges and other encumbrances affecting them

¹Clauses (b1) to (b6) were inserted by s. 5 of the Niramoy Group of Institutions Acquisition (Amendment) Act, 1991 (West Ben. Act XVIII of 1991).

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(Section 5.)

and any attachment, injunction or any decree or order of any court restricting the use of any such property in any manner shall be deemed to have been withdrawn.

(4) Any contract, whether express or implied, or any arrangement, whether under any statute or otherwise, or any order made by any court, in so far as it creates any encumbrance or any liability in relation to the Institution or any part of it shall be deemed to have terminated on the appointed day.

(5) Every person in whose possession or custody or control the Institution or any part of it may be immediately before the appointed day shall, on the appointed day, deliver possession of the Institution or part thereof to the State Government or to such person or authority as may be specified by the State Government in this behalf.

(6) Every person, who has in his possession or control any book, document or other papers relating to the Institution or any part of it, shall be liable to account for the said book, document or other papers to the State Government or to such person as the State Government may appoint in this behalf.

(7) Subject to the provisions of sub-section (4), if on the appointed day any suit, appeal or other proceeding of whatever nature by or against the Institution is pending, the same shall be continued, proceeded with or enforced by or against the Institution.

(8) The liabilities of the Institution shall, on and from the appointed day, be met by the State Government in such manner as may be prescribed.

(9) The State Government may take, or cause to be taken, all necessary steps for securing the possession of the Institution which has vested in it under this Act.

5. (1) For the transfer to, and vesting in, the State Government of the Institution under section 3, the compensation payable by the State Government for the lands and buildings shall be such as may be determined by the Competent Authority referred to in sub-section (3) of this section applying *mutatis mutandis* the provisions of the Land Acquisition Act, 1894 subject to the deduction of all liabilities relating to the lands and buildings and subject further to the condition that in respect of the lands and buildings which the General Council of Niramoy or its promoters received as gifts or donations or for permissive use from the original owners thereof, the compensation shall be determined and payable in accordance with the terms, conditions and stipulations made by the original owners thereof and subject to the deduction of all grants and contributions made by the State Government to the said General Council of Niramoy prior to the appointed day.

Payment of
compen-
sation.

*The Niramoy Group of Institutions Acquisition
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(Sections 6, 6A.)

(2) The compensation payable by the State Government for all other assets excepting the lands and buildings as provided in sub-section (1) shall be the market value thereof determined by the Competent Authority referred to in sub-section (3) of this section after deduction of all grants and donations made by the State Government to the original owners thereof prior to the appointed day.

(3) The Land Acquisition Collector, 24-Parganas, shall be the Competent Authority for the purpose of this Act.

(4) Any person aggrieved by the award of the Competent Authority may appeal to the Appellate Authority within thirty days from the date of the award and the District Judge, 24-Parganas, shall be the Appellate Authority for this purpose.

(5) The State Government shall, as soon as possible after the date of the award made by the Competent Authority, or as the case may be, the date of the order of the Appellate Authority in the case of an appeal, pay to the persons found entitled the amount of compensation determined under this section.

(6) The amount of compensation determined under this section shall carry interest at the rate of six *per cent. per annum* with effect from the appointed day till the date of payment of compensation.

Management
of the
Institution.

6. The Institution which has vested in the State Government under this Act shall be managed on behalf of the State Government by such person or authority as may be appointed by the State Government in this behalf in accordance with such rules as may be made by the State Government.

*Power to
transfer the
Institution on
lease.

6A. (1) Notwithstanding anything contained in sections 4 and 6, the State Government may, if it is satisfied that an existing, or new, joint sector company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, transfer the Institutions on lease to that existing, or new, joint sector company, as the case may be.

(2) The general superintendence, direction, control and management of the affairs and business of the Institutions shall, where the Institution has been transferred on lease to an existing, or new, joint sector company, as the case may be, vest on the existing, or new, joint sector company, as the case may be, on and from the date on which the existing, or new, joint sector company, as the case may be, takes over the Institutions on transfer on lease and thereupon the existing, or new, joint sector company,

*Section 6A was inserted by s. 6 of the Niramoy Group of Institutions Acquisition (Amendment) Act, 1991 (West Ben. Act XVIII of 1991).

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(Sections 7, 8.)

as the case may be, shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the State Government under this Act, is authorised to exercise and do in relation to the Institutions for its better management and maintenance in the public interest.

Explanation.—For the purposes of this section, “the Institutions” shall mean the Niramoy Group of Institutions, namely, Niramoy Polyclinic and Research Foundation, Gariahat Road, ¹[Kolkata]-19, the Niramoy Chest Clinic, 70, Ganesh Chandra Avenue, ¹[Kolkata]-13 and the Niramoy Chest Clinic, 2, Asutosh Mukherjee Road, ¹[Kolkata]-20, to the exclusion of the Niramoy T. B. Sanatorium, Giridanga, in the district of Birbhum, and the indoor beds and provisions for outdoor services and dispensaries attached to the said Niramoy Poly Clinic and Research Foundation, Gariahat Road, ¹[Kolkata]-19, the Niramoy Chest Clinic, 70, Ganesh Chandra Avenue, ¹[Kolkata]-13 and the Niramoy Chest Clinic, 2 Asutosh Mukherjee Road, ¹[Kolkata]-20, and used in connection therewith, and shall include all lands and buildings of the said Niramoy Poly Clinic and Research Foundation, Gariahat Road, ¹[Kolkata]-19, the Niramoy Chest Clinic, 70, Ganesh Chandra Avenue, ¹[Kolkata]-13 and the Niramoy Chest Clinic, 2, Asutosh Mukherjee Road, ¹[Kolkata]-20, but shall not include equipments, stores, drugs or other articles used as accessories to, or adjuncts of, the Niramoy Group of Institutions as aforesaid.

7. No suit, prosecution or other legal proceeding shall lie against the State Government or an officer or other employee serving in connection with the affairs of the Institution for anything which is in good faith done or intended to be done under this Act.

Protection
from acts
done in good
faith.

8. (1) Notwithstanding anything contained in sub-section (4) of section 4, every person (not being a part-time or overaged employee) employed in connection with the affairs of the Institution, who has been in such employment immediately before the appointed day shall become on and from the appointed day an employee of the State Government and shall hold office or service with such remuneration, and on such terms and conditions, as may be determined by the State Government:

Employment
of certain
employees
to continue.

Provided that any employee not being satisfied with the remuneration or terms and conditions of employment determined by the State Government may terminate his employment by giving three months' notice to the State Government to that effect:

Provided further that an employee shall be entitled to exercise option to retain the same rights to contributory provident fund as would have been admissible to him had not this Act been passed.

¹See foot-note 5 on page 505, ante.

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(Sections 8A, 9, 10.)

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law in force for the time being, the alteration in the terms and conditions of employment of an employee or the transfer of his service from the Institution to any other post shall not entitle him to any compensation under this Act or any other law in force for the time being and no claim for such compensation shall be entertained by any court, tribunal or other authority.

14 of 1947.

(3) The remuneration and the terms and conditions of employment referred to in sub-section (1) shall be finally determined by the State Government within three months from the appointed day.

Status of
employees
upon transfer
of the
Institution on
lease.

8A. The services of every employee of the State Government who has been, immediately before the date on which the existing, or new, joint sector company, as the case may be, takes over the Institutions on transfer on lease under section 6A, employed in connection with the affairs of the Institution, shall, on and from the date as aforesaid, stand transferred to the Department of Health and Family Welfare of the State Government:

Provided that any such employee may, within such period and in such manner as the State Government may by order determine, exercise an option to become an employee of the existing, or new, joint sector company, as the case may be, on such terms and conditions as the existing, or new, joint sector company, as the case may be, may determine.

Act to
override
other laws.

9. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any instrument or in any decree or order of any court or other authority.

Penalty.

10. (1) Any person who—

- (a) having in his possession or custody or control any property forming part of the Institution, wrongfully withholds such property from the State Government, or
- (b) wrongfully obtains possession of any property forming part of the Institution which has vested in the State Government, or
- (c) wilfully withholds or fails to furnish to the State Government any document relating to the Institution which may be in his possession, custody or control,

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees, or with both:

¹Section 8A was inserted by s. 7 of the Niramoy Group of Institutions Acquisition (Amendment) Act, 1991 (West Ben. Act XVIII of 1991).

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(Sections 11-13.)

Provided that the court trying any offence under this section may, at the time of convicting the accused person, order him to deliver up or refund, within a time to be fixed by the court, any property wrongfully withheld or obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the State Government or of an officer authorised by the State Government in this behalf.

Delegation
of powers.

11. The State Government may, by notification, direct that all or any of the powers exercisable by it under this Act (except the power to make rules) may also be exercised by such other person or authority as may be specified in the notification.

Power to
make rules.

12. (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 matters which may be, or are required to be, prescribed or made by rules.

Repealed
and saving.

13. (1) The Niramoy Group of Institutions Acquisition Ordinance, 1982 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Niramoy Group of Institutions Acquisition Ordinance, 1982, shall be deemed to have been validly done or taken under this Act.

West Ben.
Ord. XXI of
1982.

