



The Shivraj Fine Art Litho Works (Acquisition and Transfer of Undertaking)
Act, 1984

Act 36 of 1984

Keyword(s):

Corporation, Proprietors, Specific Date, Undertaking

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**THE SHIVRAJ FINE ART LITHO WORKS (ACQUISITION AND TRANSFER
OF UNDERTAKING) ACT, 1984.**

CONTENTS

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKING

3. Acquisition and transfer of undertaking and its vesting in State Government and its transfer and vesting in Corporation.
4. General effect of vesting.
5. *Proprietors to be liable for prior liabilities.*
6. Power of State Government to direct vesting of undertaking in new Government company.
- 6A. Taking over management of undertaking by State Government.

CHAPTER III

PAYMENT OF AMOUNTS

7. Payment of amount.
8. Payment of further amount.

CHAPTER IV

MANAGEMENT, ETC. OF THE UNDERTAKING

9. Management, etc. of undertaking.
10. Duty of persons incharge of management of undertaking to deliver all assets, etc.
11. Duty of persons to account for assets, etc. in their possession.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE PROPRIETORS

12. Continuance of employees.
13. Provident fund and other funds.

CHAPTER VI

COMMISSIONER OF PAYMENTS

14. Appointment of Commissioner of Payments.
15. Payment by State Government to Commissioner.
16. Certain powers of State Government or Corporation or new Government company.
17. Claims to be made to Commissioner.
18. Priority of claims.
19. Examination of claims.
20. Admission or rejection of claims.
21. Disbursement of money by Commissioner to claimants.
22. Disbursement of amounts to proprietors.
23. Undisbursed or unclaimed amount to be deposited with general revenue account.

SECTIONS.

CHAPTER VII

MISCELLANEOUS

24. Act to have overriding effect.
25. Contracts to cease to have effect unless ratified by State Government or Corporation or new Government company.
26. Protection of action taken in good faith.
27. Delegation of powers.
28. Penalties.
29. Offences by companies.
30. Power to make rules.
31. Power to remove difficulties.
32. Repeal of Mah. Ord. V of 1984 and saving.

MAHARASHTRA ACT No. XXXVI OF 1984.¹

[THE SHIVRAJ FINE ART LITHO WORKS (ACQUISITION AND TRANSFER OF UNDERTAKING) ACT, 1984.]

[This Act received the assent of the President on 21st December 1984; the assent was first published in the "Maharashtra Government Gazette", Part IV, Extra-ordinary, on the 21st December 1984.]

Amended by Mah. 33 of 1994 (7-5-1994)†

An Act to provide for the acquisition and transfer of the undertaking of the Shivraj Fine Art Litho Works, Nagpur, with a view to securing the proper management of such undertaking so as to subserv the interests of the general public and the employees of the undertaking by ensuring the continued manufacture, production and distribution of printed lithographic material which are essential to the needs of the economy of the State and country and for matters connected therewith or incidental thereto.

IX of 1932. WHEREAS a printing press styled as Shivraj Fine Art Litho Works, Nagpur, was run by the members of a family as partners of a partnership firm registered in the State of Maharashtra under the Indian Partnership Act, 1932;

AND WHEREAS due to the disputes between the members of the family regarding dissolution of the partnership firm, which had been a partnership at will, there ensued litigation amongst the partners and a civil suit, being Civil Suit No. 9 of 1974 was filed in the Court of the Civil Judge, Senior Division, Nagpur, wherein receivers were appointed from time to time to manage the Shivraj Fine Art Litho Works and that suit is pending in that Court;

LXV of 1951. AND WHEREAS the Shivraj Fine Art Litho Works had been engaged in the manufacture, production and distribution of printed engraved lithographic material, being articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951;

AND WHEREAS the undertaking, namely, Shivraj Fine Art Litho Works, was closed down from the 17th May 1979, throwing about 460 employees out of employment;

LXV of 1951. AND WHEREAS by Government of India, Ministry of Industry (Department of Industrial Development) Order, No. SO 634(E)/18AA/IDRA/80, dated the 23rd August 1980, the management of the undertaking was taken over by the Central Government under the provisions of the Industries (Development and Regulation) Act, 1951, and the Development Corporation of Vidarbha Limited, Nagpur, was appointed as the authorised person to manage the undertaking;

AND WHEREAS in Writ Petition No. 2741 of 1980 filed by some of the partners challenging the order of the Government of India taking over the management of the undertaking as aforesaid, the High Court of Bombay, Nagpur Bench, quashed the said order by its judgment rendered on the 28th April 1982;

AND WHEREAS the Development Corporation of Vidarbha Limited, Nagpur, filed an appeal in the Supreme Court against the judgment of the High Court and the Supreme Court had by its order, dated the 26th May 1982, stayed the operation of the judgment of the High Court;

AND WHEREAS the period for such management of the undertaking had been extended from time to time and was to expire on the 22nd August 1984;

¹ For Statement of Objects and Reasons, see Maharashtra Government Gazette, Part V, Extra-ordinary, dated 13th November 1984, pages 374-375.

† This indicates the date of commencement of the Act.

AND WHEREAS for the purpose of securing the optimum utilization of the available facilities for the manufacture, production and distribution of printed engraved lithographic material by the undertaking, its continuous proper management and investment of a large amount was necessary;

AND WHEREAS it was expedient to acquire the said undertaking to ensure that the interests of the general public and the employees of the said undertaking were served by the continuance by the undertaking of the manufacture, production and distribution of the aforesaid articles which are essential to the needs of the economy of the State and the country and to provide for matters connected therewith or incidental thereto;

AND WHEREAS such acquisition was for giving effect to the policy of State towards securing the principle specified in clause (b) of Article 39 of the Constitution of India;

AND WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for the purposes aforesaid; and, therefore, promulgated the Shivraj Fine Art Litho Works (Acquisition and Transfer of Undertaking) Ordinance, 1984 on the 11th August 1984;

Mah.
Ord.
V of
1984.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Shivraj Fine Art Litho Works (Acquisition and Transfer of Undertaking) Act, 1984.
- (2) It shall be deemed to have come into force on the 11th day of August 1984.

Definitions.

2. In this Act unless the context otherwise requires,—
 - (a) "appointed day" means the day on which this Act comes into force;
 - (b) "Commissioner" means the Commissioner of Payments appointed under section 14;
 - (c) "Corporation" means the Development Corporation of Vidarbha Limited, I of Nagpur, a Government Company registered under the Companies Act, 1956; 1956.
 - (d) "new Government company" means a Government company (including I of a subsidiary Government company) formed and registered under the Companies Act, 1956 in which the undertaking is directed to vest under sub-section (1) of section 6;
 - (e) "prescribed" means prescribed by rules made under this Act;
 - (f) "proprietors" means the partnership firm, namely, the Shivraj Fine Art Litho Works, Nagpur, registered under the Indian Partnership Act, 1932, with IX of head office at Subhash Road, Nagpur, as it existed immediately before its 1932 dissolution on the 9th January 1974, and includes the receiver or receivers appointed in Civil Suit No. 9 of 1974 in the Court of the Civil Judge, Senior Division, Nagpur;
 - (g) "Schedule" means the Schedule appended to this Act;
 - (h) "specified date", in relation to any provision of this Act, means such date as the State Government may, by notification in the *Official Gazette*, specify for the purposes of that provision, and different dates may be specified for different provisions of this Act;
 - (i) "undertaking" means the industrial undertaking known as "Shivraj Fine Art Litho Works, Nagpur", belonging to the proprietors.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKING

3. (1) On the appointed day, the undertaking and the right, title and interest of the proprietors in relation to their undertaking, shall, by virtue of this Act, stand transferred to, and vest absolutely in, the State Government.

(2) ¹[Subject to the provisions of this Act, the undertaking] which stands vested in the State Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vested in, the Corporation.

4. (1) The undertaking shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the proprietors whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the State Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them, and any attachment, injunction, decree or order of any court, tribunal or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the State Government and every person holding any charge, lien or other interest in or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interest, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in section 7 and also out of the amounts referred to in section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any such property which has vested in the State Government and the Corporation.

(5) Any licence or other instrument granted to the proprietors in relation to the undertaking which has vested in the State Government under section 3, at any time before the appointed day and in force immediately before that day, shall continue to be in force on and after such day in accordance with its tenor in relation to, and for the purposes of, such undertaking, and, on and from the date of vesting of such undertaking under section 3 in the Corporation, or under section 6 in a new Government company, the Corporation, or new Government company, as the case may be, shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to the Corporation, or new Government company, and that the Corporation, or new Government company, shall hold it for the remainder of the period for which the proprietors would have held it under the terms thereof.

¹ These words were substituted for the words "The undertaking" by Mah. 33 of 1994, s. 2.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Corporation under section 3, instituted or preferred by or against the proprietors is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Corporation, or new Government company, as the case may be.

Explanation.—For the purposes of this section the expression “any suit, appeal or other proceeding of whatever nature” shall not include Civil Suit No. 9 of 1974 pending in the Court of the Civil Judge, Senior Division, Nagpur.

Proprietors
to be liable
for prior
liabilities.

5. (1) Every liability other than the liability specified in sub-section (2), of the proprietors in respect of any period prior to the appointed day, shall be the liability of the proprietors and shall be enforceable against them and not against the State Government or against the Corporation or where the undertaking is directed under section 6 to vest in a new Government company, against that new Government company.

(2) Any liability in respect of materials supplied to the undertaking or of loans advanced to it or of any other nature, arising out of the transactions entered into by the Corporation after the management of the undertaking had been taken over by the Central Government shall, on and from the appointed day, be the liability of the Corporation, and shall, if it has remained undischarged on the appointed day, be discharged by the Corporation.

(3) For the removal of doubts, it is hereby declared that—

(a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability, other than the liability specified in sub-section (2), of the proprietors in respect of any period prior to the appointed day, shall be enforceable against the State Government or the Corporation, or, where the undertaking is directed under section 6 to vest in any other new Government company, against such new Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to the undertaking passed on or after the appointed day, in respect of any matter, claim or dispute, not being a matter, claim or dispute in relation to any matter referred to in sub-section (2), which arose before that day, shall be enforceable against the State Government or the Corporation or, where the undertaking is directed under section 6 to vest in any other new Government company, against such new Government company;

(c) no liability incurred by the proprietors before the appointed day, for the contravention of any provision of any law for the time being in force, shall be enforceable against the State Government or the Corporation, or, where the undertaking is directed under section 6 to vest in any other new Government company, against such new Government company;

(d) notwithstanding anything contained in sub-section (1) of section 12 or any other provisions of this Act or any other law for the time being in force or any contract, agreement, settlement, award, or decree or order of any court, tribunal or other authority, no liability towards claims of whatever nature of any employee against the proprietors in respect of his employment in the undertaking for the period prior to the date of taking over the undertaking by the Central Government for management under the provisions of the Industries (Development and Regulation) Act, 1951, shall be enforceable against the State Government or the Corporation.

6. (1) Notwithstanding anything contained in sections 3 and 4, where the undertaking vests, under sub-section (2) of section 3, in the Corporation, the State Government may, subject to such terms and conditions as it may think fit to impose, direct, by notification in the *Official Gazette*, that the undertaking and the right, title and interest of the proprietors in relation to the undertaking which had vested in the State Government and which on its transfer vests in the Corporation under section 3, shall, instead of continuing to vest in the Corporation, vest in a new Government company with effect from the date specified in the notification.

Power of State Government to direct vesting of undertaking in new Government company.

(2) Where the right, title and interest of the proprietors in relation to their undertaking vest, under sub-section (1), in a new Government company, such Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertaking, and all the rights and liabilities of the State Government and the Corporation in relation to the undertaking, shall on and from the date of such vesting, be deemed to have become the rights and liabilities of such Government company.

1[6A. (1) Nothing in sub-section (2) of section 3 or section 4 or in any other provision of this Act shall be deemed to prevent the State Government from taking over the management of the undertaking, the right, title and interest in which vests absolutely in the State Government by virtue of the provisions of sub-section (1) of section 3, or from transferring the management again to any Corporation or new Government company.

Taking over management of undertaking by State Government.

(2) On and with effect from such date as the State Government may, by notification in the *Official Gazette*, direct, the State Government shall take over from the Corporation, the management of the undertaking for management by itself as the owner thereof.

(3) In particular and without prejudice to the generality of the provisions of sub-section (2) and notwithstanding anything contained in sections 4, 9, 10, 11, 12 and 13, upon taking over the management of the undertaking by the State Government, the following consequences shall ensue in relation to the undertaking that is to say,—

(a)(i) the properties and the management shall be deemed to have been vested in the State Government;

(ii) the State Government shall be deemed to have been substituted in any licence or other instrument in relation to the undertaking;

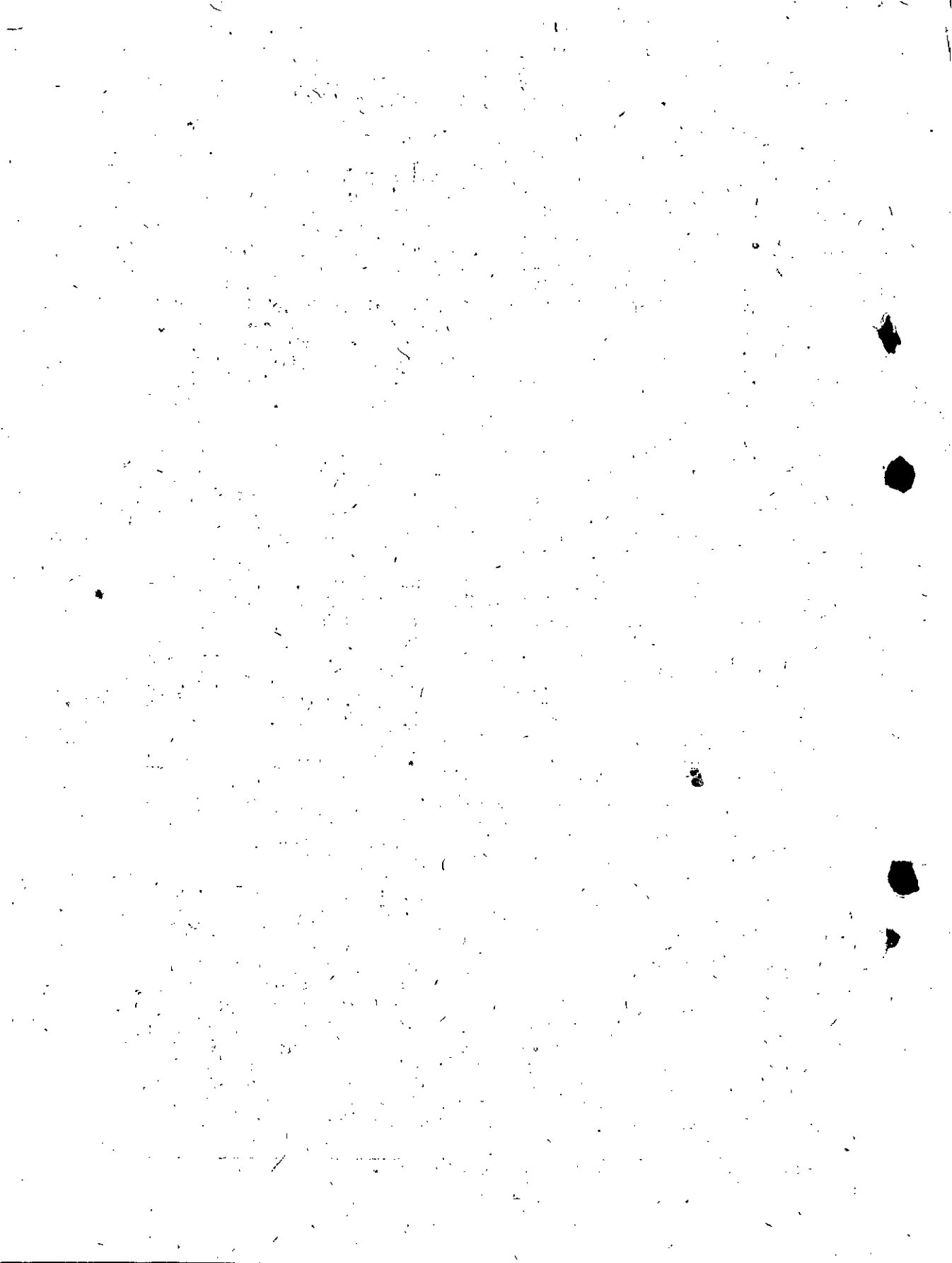
(iii) the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the State Government;

(b) for the purpose of management of the undertaking, the State Government shall be entitled to exercise to the exclusion of all persons, all such powers and do all such things in relation to the undertaking as the owner thereof;

(c) the Corporation in charge of the management of the undertaking shall be bound to deliver to the State Government all assets, books of accounts, registers and other documents in its custody relating to the undertaking;

(d) any person who has in his possession or under his control any assets, books, documents or other papers relating to the undertaking, shall be liable to account for the said assets, books, documents and other papers to the State Government, and shall deliver them to the State Government or to such person or persons as the State Government may specify in this behalf; and the State Government may take, or cause to be taken, all necessary steps for securing possession of the undertaking;

¹ Section 6A was inserted by Mah. 33 of 1994, s. 3.



(e) all the employees of the Corporation in relation to the undertaking shall form a separate unit for the purposes of its accounts and establishment, with the same rights and privileges as to salary, gratuity and other conditions of service as would have been admissible to them had the management of the Undertaking not been taken over by the State Government and shall continue to be so unless and until their employment is duly terminated or until their remuneration and other conditions of service are duly altered by the State Government and no officer or employee shall be entitled to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority;

(f) the monies, if any, standing to the credit of provident fund, superannuation fund, welfare fund or other fund in relation to the employees of the undertaking shall be transferred to, and vested in, the State Government and shall be dealt with in such manner as may be prescribed.]

CHAPTER III

PAYMENT OF AMOUNTS

7. For the transfer to, and vesting in, the State Government, under section 3, of the undertaking and the right, title and interest of the proprietors in relation to their undertaking there shall be paid by the State Government to the proprietors, in cash, and in the manner specified in Chapter VI, an amount of rupees fourteen lakhs and twelve thousand. Payment of amount.

8. (1) For the deprivation of the proprietors of the management of their undertaking (which had remained closed with effect from the 17th May 1979 to the 22nd August 1980) during the period commencing on the 23rd August 1980 being the date on which the undertaking was taken over in pursuance of the Orders made by the Central Government under the provisions of the Industries (Development and LXV Regulation) Act, 1951 and ending on the appointed day, there shall be paid by Payment of further amount.
of the State Government to the proprietors in cash and in the manner specified in 1951. Chapter VI, an amount of rupees five thousand per annum.

(2) The amounts specified in section 7 shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the State Government in the Commissioner.

(3) The amount specified in sub-section (1) and the amount determined in accordance with the provisions of sub-section (2) shall be given by the State Government to the proprietors in addition to the amount specified in section 7.

(4) For the removal of doubts, it is hereby declared that the liabilities of the proprietors in relation to their undertaking which has vested in the State Government under section 3 shall be discharged from the amounts specified in section 7, and also from the amount specified in sub-section (1) and the amount determined under sub-section (2), in accordance with the rights and interests of the creditors of the proprietors.

CHAPTER IV

MANAGEMENT, ETC. OF THE UNDERTAKING

Management, etc., of undertaking. 9. The general superintendence, direction, control and management of the affairs and business of the undertaking, the right, title and interest in relation to which have vested in the State Government under sub-section (1) of section 3, shall—

(a) by virtue of the provisions of sub-section (2) of section 3, vest in the Corporation; or

(b) where a direction has been issued by the State Government under sub-section (1) of section 6, vest in the new Government company,

and thereupon the Corporation or such Government company, 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 proprietors were authorised to exercise and do in relation to their undertaking.

Duty of persons in charge of management of undertaking to deliver all assets, etc. 10. (1) On the vesting of the management of the undertaking in the Corporation, or a new Government company, all persons in charge of the management of the undertaking immediately before such vesting, shall be bound to deliver to the Corporation, or a new Government company, as the case may be, all assets, books of accounts, registers and other documents in their custody relating to the undertaking.

(2) The State Government may issue such directions as it may deem desirable in the circumstances of the case to the Corporation or a new Government company and the Corporation or such Government company may also, if it is considered necessary so to do, apply to the State Government at any time for instructions as to the manner in which the management of the undertaking shall be conducted or in relation to any other matter arising in the course of such management.

Duty of persons to account for assets, etc. 11. (1) Any person who has, on the appointed day, in his possession or under his control, any assets, books, documents or other papers relating to the undertaking, which have vested in the State Government or in the Corporation, or in a new Government company under this Act, shall be liable to account for the said assets, books, documents and other papers to the State Government, or the Corporation, or a new Government company, as the case may be, and shall deliver them to the State Government, or the Corporation or such Government company or to such person or persons as the State Government or the Corporation or such Government company may specify in this behalf.

(2) The State Government or the Corporation or the Government company aforesaid may take, or cause to be taken, all necessary steps for securing possession of the undertaking which has vested in the State Government or the Corporation or such Government company under this Act.

(3) The proprietors shall, within such period as the State Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day, pertaining to the undertaking which has vested in the State Government under sub-section (1) of section 3 and in the Corporation, by virtue of the provisions of sub-section (2) of that section, and, for this purpose the State Government or the Corporation shall afford to the proprietors all reasonable facilities.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE PROPRIETORS

12. (1) Every person who has been, immediately before the appointed day, employed in the undertaking shall become,— Continuance of employees.

(a) on and from the appointed day, an employee of the Corporation ; and

(b) where the undertaking is directed under sub-section (1) of section 6, to vest in a new Government company, an employee of such Government company on and from the date of such vesting,

and shall hold office or service under the Corporation or such Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Corporation, or as the case may be, under such Government company, is duly terminated or until his remuneration and other conditions of service are duly altered by the Corporation or such Government company, as the case may be.

XIV of 1947. (2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in the undertaking, to the Corporation or such Government company, shall not entitle such officer or other employee 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.

13. (1) Where the proprietors have established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in the undertaking, the monies relatable to the officers or other employees, whose services have become transferred, by or under this Act, to the Corporation or a new Government company, as the case may be, shall, out of the monies standing on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and vested in, the Corporation or such Government company, as the case may be. Provident fund and other funds.

(2) The monies which stand transferred under sub-section (1) to the Corporation or such Government company, as the case may be, shall be dealt with by the Corporation or such Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

14. (1) The State Government shall, for the purpose of disbursing the amounts payable under sections 7 and 8 to the proprietors, by notification in the *Official Gazette*, appoint a Commissioner of Payments. Appointment of Commissioner of Payments.

(2) The State Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of the State.

Payment by
State
Government
to Commis-
sioner.

15. (1) The State Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to the proprietors,—
- (a) an amount equal to the amount specified in section 7; and
 - (b) an amount equal to the amount payable to the proprietors under section 8.

(2) A deposit account shall be opened by the State Government in favour of the Commissioner in the Public Account of the State, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) Records shall be maintained by the Commissioner in respect of the undertaking in relation to which payment has been made to him under this Act.

(4) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the proprietors.

Certain
powers of
State
Government
or
Corporation
or new
Government
company.

16. (1) The State Government or the Corporation, or where a direction has been issued by the State Government under sub-section (1) of section 6, a new Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the proprietors, in relation to their undertaking which has vested in the State Government, or the Corporation or in such Government company, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The State Government or the Corporation, or such Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day, for discharging any liability of the proprietors, not being any liability specified in sub-section (2) of section 5, in relation to any period prior to the appointed day; and every such claim shall have priority, in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the State Government, or the Corporation, or such Government company.

(3) Save as otherwise provided in this Act, the liabilities of the proprietors in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the proprietors.

Claims to be
made to
Commis-
sioners

17. Every person having a claim against the proprietors with regard to any of the matters specified in the Schedule pertaining to the undertaking, shall prefer such claim before the Commissioner within thirty days from the specified date :

Provided that, if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days but not thereafter.

Priority of
claims.

18. The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely :—

(a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III;

(b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and

(c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

19. (1) On receipt of the claims made under section 17, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities. Examination of claims.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

20. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim. Admission or rejection of claims.

(2) Not less than fourteen days' notice of the date fixed shall be given by advertisement in one issue of such daily newspaper in the English language, one issue of such daily newspaper in the Marathi language and in one issue of such daily newspaper in such other regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the proprietors an opportunity of refuting the claims and after giving the claimant a reasonable opportunity of being heard, admit or reject, by order in writing, the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely :—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

XLV of 1860, II of 1974. (6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860, and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against such decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the proprietors is situated:

Provided that, where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court of Bombay and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by Commissioner to claimants. 21. After admitting a claim under this Act the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due, and on such payment, the liability of the proprietors in respect of such claim shall stand discharged.

Disbursement of amounts to proprietors. 22. (1) If, out of the monies paid to him in relation to the undertaking, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the proprietors.

(2) Where the possession of any machinery, equipment or other property has vested in the State Government, or Corporation, or a new Government company, under this Act, but such machinery, equipment or other property does not belong to the proprietors, it shall be lawful for the State Government or the Corporation or such Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the proprietors immediately before the appointed day.

Undisbursed or unclaimed amount to be deposited with general revenue account. 23. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner, before his office is finally wound up, to the general revenue account of the State Government; but a claim to any money so transferred may be preferred to the State Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim, being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overriding effect. 24. 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.

Contracts to cease to have effect unless ratified by State Government or Corporation or new Government company. 25. Every contract entered into by the proprietors in relation to their undertaking, which has vested in the State Government under section 3, for any service, sale or supply, and in force immediately before the appointed day, shall on and from the expiry of one hundred and eighty days from the appointed day, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing by the State Government, or the Corporation, or a new Government company, in which such undertaking has been vested under this Act, and in ratifying such contract, the State Government, or the Corporation, or such Government company may make such alteration or modification therein as it may think fit :

Provided that, the State Government, or the Corporation, or such Government company shall not omit to ratify a contract and shall not make any alteration or modification in a contract,—

(a) unless it is satisfied that such contract is unduly onerous, or has been entered into in bad faith, or is detrimental to the interests of the State Government, or the Corporation or such Government company; and

(b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

26. (1) No suit, prosecution or other legal proceeding shall lie against the State Government, or the Corporation, or a new Government company or any officer or other employee of that Government, or the Corporation or such Government company, or other person authorised by the State Government, or the Corporation, or such Government company for anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the State Government or the Corporation, or such Government company, or any officer or other employee of that Government, or the Corporation, or such Government company or other person authorised by the State Government, or the Corporation, or such Government company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

27. (1) The State Government may, by notification in the *Official Gazette*, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section, section 30 and section 31, may also be exercised by such person or persons as may be specified in the notification. Delegation of powers.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the State Government.

28. Any person who,—

(a) having in his possession, custody or control any property forming part of the undertaking, wrongfully withholds such property from the State Government, or the Corporation or a new Government company; or Penalties.

(b) wrongfully obtains possession of, or retains, any property forming part of the undertaking; or

(c) wilfully withholds or fails to furnish to the State Government, or the Corporation, or new Government company, as the case may be, or any person or body of persons specified by that Government, or the Corporation or such Government company, any document relating to the undertaking, which may be in his possession, custody or control; or

(d) fails to deliver to the State Government, or the Corporation, or new Government company, as the case may be, or to any person or body of persons specified by that Government, or the Corporation, or such Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to the undertaking; or

(e) wrongfully removes or destroys any property forming part of the undertaking; or

(f) wrongfully prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

29. (1) Where an offence under this Act has been committed by a company, every person, who, at the time when the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of 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. Offences by companies.

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or 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 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 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.

Power to make rules. 30. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the provisions 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 time within which, and the manner in which, an intimation referred to in sub-section (3) of section 4 shall be given to the Commissioner;

(b) the manner in which the monies in any provident fund or other fund under section 13 shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this Act, shall be laid, as soon as may be, after it is made, before each House of State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties. 31. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

Repeal of Mah. Ord. V of 1984 and Saving. 32. (1) The Shivraj Fine Art Litho Works (Acquisition and Transfer of Undertaking) Ordinance, 1984, is hereby repealed. Mah. Ord. V of 1984.

(2) Notwithstanding such repeal, anything done or any action taken including any rules made or any order or direction issued under the said Ordinance shall be deemed to have been done, taken, made or issued, as the case may be, under the corresponding provisions of this Act.

SCHEDULE

[See sections 2 (g), 17, 18, 19, 20 (1) and 22]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE PROPRIETORS
FOR PRE-TAKE-OVER MANAGEMENT PERIOD

Category I—

- (a) Wages, salaries and other dues payable to the employees of the proprietors in the undertaking.
- (b) Deductions made from the salaries and wages of the employees for provident fund, Employees' State Insurance premium relating to Life Insurance Corporation of India or for any other purposes.
- (c) Arrears in relation to contributions to be made by the proprietors to the provident fund, Employees' State Insurance Fund, Life Insurance Corporation premium and any other arrears under any other law for the time being in force (excluding gratuity).

Category II—

Principal amount of secured loans advanced by—

- (a) the Central Government;
- (b) the State Government;
- (c) banks and public financial institutions;
- (d) any other sources.

Category III—

- (a) Any credits availed of by the proprietors for the purpose of carrying on any trading or manufacturing operations.
- (b) Any dues of State Electricity Board or Government and semi-Government institutions against supply of goods or services.
- (c) Arrears of interest on loans and advances.
- (d) Revenue, taxes, cesses, rates or other dues to Central Government, the State Government or any local authority.
- (e) Any other loans or dues.

