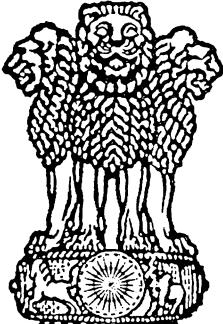


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THURSDAY, MAY 27, 2010

[SAKA 1932]

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 725-L.—27th May, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 13 of 2010

**THE ACHARYA BHAVAN OF LATE SIR JAGADIS CHANDRA BOSE
AND HIS WIFE LATE LADY ABALA BOSE (ACQUISITION AND
TRANSFER OF UNDERTAKINGS) BILL, 2010.**

**A
BILL**

to provide for the acquisition and transfer, in the public interest, of the undertakings of the 'Acharya Bhavan' former residence of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose, and for matters connected therewith or incidental thereto;

WHEREAS it is considered indispensable to upkeep, preserve the materials and significant historical documents, the precious scientific equipments and properties of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose, lying in the said 'Acharya Bhavan';

AND WHEREAS it is expedient in the public interest to provide the acquisition of the former residence of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose, known as 'Acharya Bhavan' at 93, Acharya Prafulla Chandra Road, Kolkata-700 009, for its better control, maintenance and management as well as for

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(Clauses 1-4.)

the preservation of valuable materials, significant historical documents, the precious scientific equipments and properties therein left by Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose;

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the Acharya Bhavan of Late Jagadis Chandra Bose and His Wife Late Lady Abala Bose (Acquisition and Transfer of Undertakings) Act, 2010.

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

Definitions.

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

- (a) 'Acharya Bhavan' means the Acharya Bhavan which is the former residence of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose located at 93, Acharya Prafulla Chandra Road, Kolkata-700 009 (in the district of Kolkata);
- (b) 'appointed day' means the date on which this Act comes into force;
- (c) 'undertaking' includes all assets and documents, rights, lease-holds, powers, authorities and privileges, and all properties movable and immovable, including lands, buildings, offices, installations, laboratories, office furniture, stationery and equipment, vehicles, cash balance, cash in hand, reserve funds, instrument, and all other rights and interest in, or arising out of, such property as were immediately before the appointed day, in the ownership, possession or control of 'Acharya Bhavan', or belong to 'Acharya Bhavan', whether within or outside India, and all books of accounts, registers and all other documents of whatever nature relating thereto;
- (d) 'notification' means a notification published in the *Kolkata Gazette*;
- (e) 'prescribed' means prescribed by rules made under this Act;
- (f) 'State Government' means Government of West Bengal.

Transfer to, and vesting in, the State Government of the undertakings of the 'Acharya Bhavan'.

General effect of Vesting.

3. On the appointed day, the undertakings of 'Acharya Bhavan', and every right, title and interest of 'Acharya Bhavan' in relation to the undertakings, shall stand transferred to and vested in, the State Government, free from all encumbrances.

4. (1) The undertaking of 'Acharya Bhavan' and the right, title and interest of 'Acharya Bhavan' in relation to such undertaking that have vested in the State Government under section 3 shall consequent to such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and any other encumbrance affecting them and any attachment, injunction, decree or order of any court or other authority prohibiting or restricting the use of such undertaking in any manner shall cease to operate and custody, control or possession of any receiver appointed by any court, Tribunal or authority or appointing such receiver in respect of the whole or any part of such undertaking shall be deemed to have been discharged.

(2) On the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any undertaking which has vested in the State Government under section 3 may have been instituted or preferred by or against 'Acharya Bhavan' pend,

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(Clauses 5, 6.)

the same shall not abate or be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of 'Acharya Bhavan' or of anything contained in this Act, and the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the State Government or, where the undertakings of 'Acharya Bhavan' has been transferred to an institution or authority or body or Society or Board or organisation under section 5, by or against that institution or authority or body or Society or Board or organisation.

Power of State Government to direct transfer of the undertakings of 'Acharya Bhavan'.

5. (1) Notwithstanding anything contained in section 3, the State Government may, if it is satisfied that any institution or authority or body or society or Board or organisation is willing to comply, or has complied with such terms and conditions as may be prescribed, transfer the undertakings of 'Acharya Bhavan' and the right, title and interest of 'Acharya Bhavan' in relation to its undertakings which have vested in the State Government under section 3, to that institution or authority or body or Society or Board or organisation either on the date of transfer or on such date as may be prescribed.

(2) Where the right, title and interest of 'Acharya Bhavan' in relation to its undertakings, transfer under sub-section (1) to an institution or authority or body or Society or Board or organisation, on and from the date of such transfer,—

- (a) the institution or authority or body or Society or Board or organisation shall be deemed to have become, and shall be deemed to be, the owner in relation to such undertakings, and
- (b) the rights and liabilities of the State Government in relation to such undertakings shall be deemed to have become, and shall be deemed to be, the rights and liabilities, respectively of that institution or authority or body or Society or Board or organisation.

Payment of amount.

6. (1) For the transfer to, and vesting in, the State Government, under section 3, of the undertakings of 'Acharya Bhavan' and the right, title and interest of 'Acharya Bhavan' in relation to its undertakings, the Compensation payable by the State Government shall be such as may be determined by the competent authority referred to in sub-section (2) of this section, subject to the condition that deduction of all grants and contributions made by the State Government to 'Acharya Bhavan' for the purpose of lands and buildings prior to the appointed day shall be made and subject further to the conditions that the total amount of financial assistance received from the Central Government, if any, for construction of any work of the said building or for other purposes of 'Acharya Bhavan' prior to the appointed day shall be taken into consideration for determination of quantum of such compensation.

(2) The Land Acquisition Collector, Kolkata, shall be the competent authority for the purpose of this Act.

(3) 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 Chief Judge, City Civil Court, Calcutta shall be the appellate authority for this purpose.

(4) The State Government shall, 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 person such amount of compensation as he may be entitled under this section:

Provided that no compensation shall be payable under this section where the right to such compensation has been relinquished in writing by a person found entitled to the compensation determined under this Act,

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(Clauses 7-9.)

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

Management etc.
of the
undertakings of
'Acharya
Bhavan'.

7. The general superintendence, direction, control and management of the affairs of the undertakings of 'Acharya Bhavan' and the right, title and interest therein that have vested in the State Government under section 3, shall, where a direction has been given by the State Government under sub-section (1) of section 5, shall stand transferred on and from the date specified in such direction, to the institution or authority or body or Society or board or organisation shall be entitled to exercise, to the exclusion of all other persons, all such powers and do all such things as the institution or authority or body or Society or board or organisation, as the case may be, is authorised to exercise and may do in relation to its undertakings.

Duty to deliver
possession of the
undertakings.

8. (1) Notwithstanding any decree, judgement or order of any court or anything contained in any other law for the time being in force, any person, in whose possession or custody or under whose control the undertakings of 'Acharya Bhavan' (which have vested in the State Government or transferred to any institution or authority or body or Society or board or organisation under this Act) or any part thereof may be, shall deliver possession of the undertakings of 'Acharya Bhavan' or such part thereof as may be in his possession, custody or control to the State Government, or with the consent of the State Government, to the institution or authority or body or Society or board or organisation, as the case may be.

(2) The State Government or the institution or authority or body or Society or board or organisation may take, or cause to be taken, all necessary steps for securing the possession of the undertakings which have vested in the State Government or transferred to the institution or authority or body or Society or Board or organisation under this Act.

Employment of
certain employees
to continue.

9. (1) Every person who has been, immediately before the appointed day, employed in any of the undertakings of 'Acharya Bhavan' shall,—

- (a) on and from the appointed day, be deemed to be an employee of the State Government, or
- (b) where the undertakings of 'Acharya Bhavan' are transferred under sub-section (1) of section 5, to an institution or authority or body or Society or board or organisation, be deemed to be an employee of such institution or authority or body or Society or board or organisation on and from the date of such vesting, or transfer, as the case may be,

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

(2) Notwithstanding anything contained in any other law for the time being in force, the transfer of the services of any officer or other person employed in the undertakings of 'Acharya Bhavan' to the State Government or the institution or authority or body or Society or board or organisation, as the case may be, shall not

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(Clauses 10-14.)

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.

Act to have overriding effect.

10. 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 have effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or authority.

Protection of action taken in good faith.

11. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of that Government or the transferee institution or authority or body or Society or board or organisation for anything which is in good faith done or intended to be done under this Act.

Penalty.

12. Any person, who—

(a) having in his possession, custody or control any asset, property or object of undertaking of 'Acharya Bhavan' wrongfully withholds such undertaking from State Government or institution or authority or body or Society or board or organisation, as the case may be, or

(b) wrongfully obtains possession of, or returns, any undertaking of 'Acharya Bhavan' or wilfully withholds or fails to furnish to the State Government or, as the case may be, the transferee institution or authority or body or society or board or organisation, any undertaking which may be in his possession, custody or control, or fails to deliver to the State Government or, as the case may be, the institution or authority or body or Society or board or organisation, any undertaking of 'Acharya Bhavan', or

(c) wrongfully removes or destroys any undertaking of 'Acharya Bhavan' or prefers any claim under this Act which he knows or has reason to believe to be false or inaccurate,

shall be punishable with imprisonment which shall not be less than one month but which may extend to two years or with fine which may extend to ten thousand rupees, or both:

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 undertaking referred to in this section.

Delegation of powers.

13. (1) The State Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section or sections 14 and 15, may also be exercised by such person or persons as may be specified in the notification.

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

Power to make rules.

14. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the 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

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(Clause 15.)

the session or the successive sessions aforesaid, the State Legislature agrees in making any modifications in the rule or the State Legislature agrees that the rule should not be made, 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.

15. 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 a period of two years from the date of publication of this Act in the *Official Gazette*.

STATEMENT OF OBJECTS AND REASONS.

The question of acquisition and transfer, in the public interest, of the undertakings of the "Acharya Bhavan" at 93, Acharya Prafulla Chandra Road, Kolkata-700 009, former residence of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose has been under active consideration of the State Government for some time past.

There has also been a persistent demand from the Eminent Scientists of India that "Acharya Bhavan", the former residence of Acharya Jagadis Chandra Bose be declared as a National Heritage and converted into the "Museum" for proper upkeep and preservation of the materials and historical documents lying in the house.

The said Acharya Bhavan is under the control of the Trustees and is presently being managed by two Receivers appointed by the Hon'ble High Court, Calcutta.

Accordingly, it has been found to be expedient in the public interest to provide for the acquisition and transfer of the former residence of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose, known as, "Acharya Bhavan" at 93, Acharya Prafulla Chandra Road, Kolkata-700 009, for its better control, maintenance, management as well as for the preservation of the valuable materials, significant historical documents, the precious equipments and properties therein left by Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose.

The Bill has been framed with the above objects in view.

KOLKATA,
The 20th May, 2010.

SUDARSAN RAYCHAUDHURI,
Member-in-charge.

The Acharya Bhavan of Late Sir Jagadis Chandra Bose and His Wife Late Lady Abala Bose (Acquisition and Transfer of Undertakings) Bill, 2010.

FINANCIAL MEMORANDUM.

For the acquisition and transfer of the undertakings of "Acharya Bhavan" and vesting in, the State Government shall have to pay the compensation (as non-recurring expenditure) as may be determined by the competent Authority i.e. the Land Acquisition Collector, Kolkata subject to the condition that deduction of all grants and contributions made by the State Government to "Acharya Bhavan" for the purpose of Lands and Buildings prior to the appointed day shall be made and subject further to the condition that the total amount of financial assistance received from the Central Government, if any, for construction of any work of said building or for other purposes of "Acharya Bhavan" prior to the appointed day shall be taken into consideration for determination of quantum of such compensation. The amount of compensation shall carry simple interest at the rate of 6 per cent per annum with effect from the appointed day till the date of payment of compensation.

In addition, a recurring expenditure of about Rs. 1,60,800/- (Rupees one lakh sixty thousand eight hundred) per annum will be required for payment of remuneration to the employees of the undertakings of "Acharya Bhavan" on and from the appointed day till the date of vesting or transfer of the undertakings of "Acharya Bhavan", as the case may be, to any institution or authority or body or society or board or organization.

Necessary provision will be made in the State Budget for meeting non-recurring expenditure. The State Government will also sanction annual grants of Rs. 1,60,800/- (Rupees one lakh sixty thousand eight hundred) to meet up the remuneration to the existing employees employed in any of the undertakings of "Acharya Bhavan" on and from the appointed day as recurring expenditure till the date of vesting or transfer of the undertakings of the said "Acharya Bhavan" and provision will be made in the State Budget for this purpose.

KOLKATA,

The 20th May, 2010.

SUDARSAN RAYCHAUDHURI,

Member-in-charge.

By order of the Governor,

MITA BASU ROY,

*Pr. Secy. to the Govt. of West Bengal,
Law Department.*

C O R R I G E N D U M

Bill No. 13 of 2010

THE ACHARYA BHAVAN OF LATE SIR JAGADIS CHANDRA BOSE AND HIS WIFE LATE LADY ABALA BOSE (ACQUISITION AND TRANSFER OF UNDERTAKINGS) BILL, 2010.

[Corrigendum in “ STATEMENT OF OBJECTS AND REASONS”]

- i) **Para – 3 shall be deleted.**
- ii) **“or belong to Acharya Bhavan anywhere else,” shall be inserted IN PARA - 4**
after “Accordingly, it has been found to be expedient in the public interest to provide for the acquisition and transfer of the former residence of Late Sir Jagadis Chandra Bose and his wife Late Lady Abala Bose, known as, ”Acharya Bhavan” at 93,Acharya Prafulla Chandra Road, Kolkata – 700009,”

Sd/-

SUDARSAN RAYCHAUDHURI
Member –in-Charge.

Kolkata ,
The 26th July, 2010.