

THE ORISSA STATE ROADS TOLLS BILL, 2010

TO CONSOLIDATE AND AMEND LAW RELATING TO LEVY AND COLLECTION OF TOLLS FOR USING STATE ROADS INCLUDING BRIDGES IN STATE ROADS AND TO PROVIDE FOR PRIVATE PARTICIPATION IN CONSTRUCTION, DEVELOPMENT, MAINTENANCE AND OPERATION OF SUCH BRIDGES AND ROADS IN THE STATE AND FOR MATTERS CONNECTED THERE WITH OR INCIDENTAL THERETO.

Be it enacted by the Legislature of the State of Orissa in the Sixtieth Year of the Republic of India as follows:-

Short title, 1.(1) This Act may be called the Orissa State Roads Tolls
extent, Act, 2010.

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

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

(4) It shall apply to every State Road under the control of
the State Government including section thereof and
every bridge constructed on or across such Road as
the State Government may, by notification, specify
from time to time.

Definitions. 2. In this Act, unless the context otherwise requires:-

(a) "bridge" means a permanent structure on State Road of
any category providing passage for a road traffic or other
moving loads over depression or obstruction such as
channel, river, road or railway, as the case may be, and
includes road over-bridge, flyover and road under bridge;

(b) "bypass" means a section of State Road that avoids a
city, town or village;

(c) "Company" means a Government Company as defined 1 of 1956

in section 617 of the Companies Act, 1956;

(d) "concessionaire" means a person with whom an agreement has been entered into under section 4;

(e) "Corporation" means a corporation established by or under a Central Act or State Act, which is controlled or managed by the Central Government or State Government;

(f) "executing authority" means the State Government or office of the State Government, Corporation or Company to whom responsibility for making, repairing or improving a State Road or bridge is entrusted by the State Government;

(g) "mechanical vehicle" means any vehicle driven under its own power including a motor vehicle as defined under the Motor Vehicle Act, 1988;

59 of 1988

(h) "prescribed" means prescribed by rules made under this Act;

(i) "Prescribed authority" means the authority to be notified by the State Government for the purpose of superintending collection of toll under this Act;

(j) "road over bridge" means a section of State Road constructed over a railway or road to facilitate flow of traffic

(k) "road under bridge" means a section of State Road constructed under a railway or road to facilitate flow of traffic

(l) "rules" means rules made under this Act;

(m) "State Road" means a continuous length of the whole or

part of a State Highway, Major District Road, other District Road or village Road and includes a bypass but shall not include National Highway as specified in the Schedule to the National Highways Act, 1956:

45 of 1956

Explanation-In this clause, The expression-

(i) "State Highway" means any arterial route of the State linking any district headquarter or important cities within the State and connecting it with a National Highway or Highway of any neighboring State;

(ii) "Major District Road" means any important roads within a district serving areas of production and markets, and connecting it with another such road or with a National Highway:

(iii) "Other District Road" means a road serving any rural area of production and providing it with an outlet to a market centre, tahsil headquarters, block headquarters or other main road:

(iv) "Village Road" means a road connecting any village or group of villages with any other village or group of villages and to the nearest road of a higher category;

(n) "toll gate" means any building, structure or booth made for collection of toll ; and

(o) "Wholesale Price Index" (WPI) means wholesale price index as released by the Office of Economic Advisor, Ministry of Commerce and Industry, Government of India or any substitute thereof, as may be notified in the Official Gazette by the Central Government.

Power to
levy and
collect toll.

3.(1) The State Government may, by notification, levy toll at such rates as may be laid down by rules made in this behalf on every mechanical vehicle for using any State Road or bridge which has been, or shall hereafter be, made, repaired or improved at the expenses of the Central or State Government or any Corporation or Company.

(2) The State Government may revise the toll rate fixed under sub-section (1) each year linking with the wholesale price index in the manner as may be prescribed .

(3) Such toll when so levied shall be collected in accordance with the rules made under this Act and all persons employed in relation to collection of tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land revenue.

Power of State
Government to
enter into
agreement for
development,
construction
and
maintenance
etc. of State
Roads and
bridges

4.(1) Notwithstanding anything contained in this Act, the State Government may enter into an agreement with any person in relation to construction, development, maintenance and operation of any State Road or bridge.

(2) Notwithstanding anything contained in section 3, the person referred to in sub-section(1) is entitled to collect and retain toll at such rate, for services or benefits rendered by him as the State Government may, subject to rules, by notification, specify having regard to the expenditure involved in construction, development, maintenance and operation of the whole or part of such State Road and bridge, interest on the capital invested, reasonable return, the volume of traffic and the period of such agreement.

Recovery of toll

5.(1) When any toll is not paid on demand, the person

authorized to collect the same shall seize any mechanical vehicle on which it is chargeable or any goods carried by such mechanical vehicle and if the toll remain unpaid for twenty-four hours with the cost arising from such seizure, the case shall be brought before the prescribed authority.

(2) Where a case is brought before the prescribed authority he may sell the property seized for discharge of the toll and all expenses incurred for such non-payment, seizure and sale of the property in public auction, and any balance that may remain after such discharge shall be returned, on demand, to the owner of the mechanical vehicle or goods, as the case may be:

Provided that if, at any time before the sale has actually begun, the person whose property has been seized tendered the amount of all the expenses incurred and double the toll payable by him, the property so seized shall, forthwith, be released.

Exemption from payment of toll 6.(1) No toll shall be collected from such mechanical vehicles or class of mechanical vehicles, any class of persons or individual as the State Government may by notification or special order, exempt from the levy or payment of toll

Assistance by Police Officer. 7. Every police officer shall be bound to assist the person authorized to collect toll, when required, in execution of the provisions of this Act and for that purpose, shall have the same power which they have in the exercise of their ordinary police duties.

Penalty for unauthorized collection and 8.(1) Every person other than the persons authorized to collect the toll under this Act, who levies or demands any toll on any State Road or bridge shall, on conviction, be

award of
compensation.

liable for imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Every person who unlawfully demands or takes any toll at a higher rate than lawfully levied under this Act or seizes or sells any property knowing such seizure or sale to be unlawful or in any manner unlawfully extorts money or any valuable things from any person under the colours of this Act, shall, on conviction, be liable to imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) When a Magistrate imposes sentence of fine or any sentence of which fine forms a part, the Magistrate may, when passing the judgment, order the whole or any part of the fine recovered to be paid to the person for loss or injury caused to him for the unauthorized collection of toll.

(4) No Magistrate shall take cognizance of any offence under this Act except on a complaint in writing made by an officer authorized by the State Government in this behalf.

Complaint for
unauthorized
collection

9.(1) Any driver, owner or person in charge of a mechanical vehicle aggrieved by unauthorized collection of toll may lodge a complaint before the prescribed authority who shall, after hearing the parties, pass an order on such complaint for refund of excess payment and damages for the inconvenience suffered by such user.

(2) Any person aggrieved by the order passed under subsection(1) may, within thirty days of the communication of the Order, prefer an appeal to such authority as may be prescribed, who shall after giving reasonable opportunity of being heard to the parties, pass such order as it may deem fit.

Display of information

10. The executing authority or the concessionaire, as the case may be, shall display in a conspicuous place near the toll gate legibly written or printed in English and in Oriya Language, the amount of toll payable for each class of mechanical vehicle, the categories of vehicle exempted from payment of toll, as the case may be and the name, address and telephone number or contact number of the executing authority of the concessionaire.

Act to override other State law

11 (1) If any provision contained in any State Act is repugnant to any provision contained in this Act, the provision of this Act shall prevail over the provision contained in any such State Act and such provisions of the State Act shall, to the extent of repugnancy be void.

Protection of action taken in good faith.

12. No prosecution, suit or other legal proceedings shall lie against the executing authority or concessionaire or any person authorized to act by or under this Act for anything done or intended to be done in good faith in pursuance of this Act or rules.

Power to make rules.

13.(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 powers, such rules may provide for all or any of the following matters, namely:-

(a) the rate at which toll may be levied, the manner in which such toll shall be collected and the method of revision of tolls under section 3;

(b) mechanical vehicles to be exempted from payment of toll under section 6.

(c) appellate authority under section 9 ; and

(d) any other matter for which provision should be made under this Act.

Act to override other laws 14 (1) Notwithstanding anything contrary contained in the Tolls Act, 1851 (as amended from time to time) the provisions of the present Act shall have an overriding effect. 8 of 1851

Power to remove difficulties 15.(1) If any difficulty arises in giving effect to the provisions of Act, the State Government may, by order published in the official Gazette, make necessary provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after expiry of the period of five years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Orissa Legislative Assembly.