

Auroville (Emergency Provisions) Act, 1980

(Act No. 59 of 1980)

[17th December, 1980]

An Act to provide for the taking over, in the public interest, of the management of Auroville for a limited period and for matters connected therewith or incidental thereto.

WHEREAS Sri Aurobindo Society, a non-governmental organization had been a channel of funds for the setting up of a cultural township known as Auroville, where people of different countries are expected to live together in harmony in one community and are expected to engage in cultural, educational, scientific and other pursuits aiming at human unity;

AND WHEREAS the United Nations Educational, Scientific and Cultural Organisation (hereinafter referred to as 'UNESCO'), being of the opinion that the project aforesaid would contribute to international understanding and promotion of peace, by a resolution passed in 1966, commended Auroville to those interested in UNESCO's ideals;

AND WHEREAS by a further resolution passed in 1968, the UNESCO had invited its member-States and international non-governmental organization to participate in the development of Auroville as an international cultural township designed to bring together the values of different cultures and organization in a harmonious environment with integrated living standards which correspond to man's physical and spiritual needs;

AND WHEREAS by a further resolution passed at its sitting held from the 12th October to 14th November, 1970, the UNESCO had directed its Director-General to take such steps as may be feasible, within the budgetary provisions, to promote the development of Auroville as an important international cultural programme;

AND WHEREAS Auroville was developed as a cultural township with the aid of funds received from different organization in and outside India as also from the substantial grants received from the Central and State Governments;

AND WHEREAS pursuant to the complaints received with regard to the misuse of funds by Sri Aurobindo Society, a Committee was set up under the chairmanship of

the Lieutenant-Governor of Pondicherry with representative of the Government of Tamil Nadu and of the Ministry of Home Affairs in the Central Government, and the said Committee had after a detailed scrutiny of the accounts of Sri Aurobindo Society, found instances of serious irregularities in the management of the said Society, misutilisation of its funds and their diversion to other purposes;

AND WHEREAS in view of the serious difficulties which have arisen with regard to the management of Auroville, it is necessary to take over, for a limited period, the management thereof and any delay in taking over the management of Auroville would be highly detrimental to the interests and objectives of Auroville;

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:-

CHAPTER I

Preliminary

1. Short title and commencement :- (1) This Act may be called the Auroville (Emergency Provisions) Act, 1980.

(2) It shall be deemed to have come into force on the 10th day of November, 1980.

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

(a) "Administrator" means the Administrator appointed under section 5;

(b) "appointed day" means the 10th day of November, 1980;

(c) "Auroville" means so much of the undertakings as form part of, or are relatable to, the cultural township which is known as Auroville and the charter of which was proclaimed by the 'Mother' on the 28th day of February, 1968;

(d) "Council" means the 'Auroville International Advisory Council' constituted under sub-section (1) of section 6;

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

(f) "Society" means Sri Aurobindo Society being a society as defined in the West Bengal Societies Registration Act, 1961 (West Bengal Act XXVI of 1961), and having its registered office at Calcutta;

(g) words and expressions used herein and not defined, but defined in the Societies Registration Act, 1860 (21 of 1860), shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

Taking over of the management of Auroville.

3. management of Auroville to vest in the Central Government for a limited period

:- (1) On and from the appointed day and for a period of two years thereafter, the management of Auroville shall vest in the Central Government:

Provided that where the Central Government is of opinion that in order to secure the proper management of Auroville, it is expedient that such management should continue to vest in that Government after the expiry of the said period of two years, it may, from time to time issue directions for the continuance of such management for such period, not exceeding one year at a time, as it may think fit; so, however, that the total period for which such management shall continue to vest in the Central Government shall not, in any case, exceed eight years.

(2) Auroville shall be deemed to include all the assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the Society as form part of, or are relatable to, Auroville and all other rights and interests arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the society, whether within or without India, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

4. Application of West Bengal Act XXVI of 1961 :- (1) Notwithstanding anything contained in any other law for the time being in force or in the memorandum or the rules and regulations of the Society;-

(a) on and from the appointed day, every member of the Governing Body of the Society, by whatever name called, shall cease to exercise any powers of management in relation to Auroville;

(b) it shall not be lawful for the members of the Society or any other person to nominate or appoint any person as Manager or Director of so much of the assets of the Society as form part of, or are relatable to, Auroville;

(c) no resolution in relation to Auroville passed at any meeting of the members of the Society or of the members of Auroville shall be given effect to unless it is approved by the Central Government;

(d) no proceeding for the dissolution of the Society or merger of the Society with any other society or for the appointment of a receiver in respect of any asset forming part of, or relatable to, Auroville, the management of which has vested in the Central Government under section 3, shall lie in any court except with the consent of the General Government.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf for the purposes of this Act, the provisions of the West Bengal Societies Registration Act, 1961 (West Bengal Act XXVI of 1961), shall continue to apply to the Society in the same manner as they applied thereto before the appointed day.

5. Administrator of Auroville :- (1) The Central Government shall, as from the appointed day, appoint a person or a body of persons as the Administrator for the purpose of taking over the management of Auroville and the Administrator shall carry on the management of Auroville for and on behalf of the Central Government.

(2).The Administrator may authorise such person as he thinks fit 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, and subject to the general or special directions given or imposed by the Administrator, the person so authorised to exercise many powers of the Administrator may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by way of authorisation.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature, in relation to any property which has vested in the Central Government under section 3, instituted or preferred by or against the Society is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the taking over of the management of Auroville or of anything contained in this Act but the suit, appeal or other proceeding may be pursued, prosecuted or enforced by or against the Central Government.

(4) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator, as to his powers and duties as that Government may deem desirable and the Administrator may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of Auroville or in relation to any matter arising in the course of such management.

(5) Subject to the other provisions of this Act and to the control of the Central Government, the Administrator shall be entitled, notwithstanding anything contained in the West Bengal Societies Registration Act, 1961 (West Bengal Act XXVI of 1961), or in any other law for the time being in force, to exercise , in relation to Auroville, the powers of the Governing Body or Executive Committee or, as the case may be, of the Board of Trustees of the Society, including the powers to dispose of any property or assets of the Society, whether such powers are derived from the West Bengal Societies Registration Act, 1961 , or from the memorandum and rules and regulations of the Society or from any other source.

(6) The Administrator and the other persons authorised by him under sub-section (2) shall receive from the funds of the Society relatable to Auroville such remuneration as the Central Government may fix.

6. Advisory Council :- (1) As soon as may be after the commencement of this Act and in any case within one month from such commencement, the Central Government shall constitute, by notification in the Official Gazette, a Council to be called the 'Auroville International Advisory Council'.

(2) The Council may on its own motion or on a reference made to it by the Central Government advise the Central Government on any matter concerning the management of Auroville.

(3) In tendering any advice to the Central Government, the Council shall endeavour to secure that—

(a) the ideals for which Auroville has been established are encouraged, and

(b) the members of Auroville are allowed freedom to grow and develop activities and institutions for the fulfilment of the aspirations and programmes envisaged in the Charter of Auroville.

(4) The Council shall consist of such number of members not exceeding five as may be appointed by the Central Government from amongst persons, who in its opinion are devoted to the ideals of human unity, peace and progress.

(5) There shall be a Chairman of the Council who shall be elected by the members of the Council from among themselves.

(6) The term of office of, the method of filling casual vacancies among and the allowances and other remuneration, if any, payable to, the members of the Council shall be such as may be prescribed.

(7) The Council shall, subject to any rules that may be made in this behalf under section 17, have power to regulate its own procedure.

7. Delivery of possession of properties of Auroville :- (1) Every person having, on the appointed day, in his possession, custody or control any property forming part of, or relating to, Auroville, shall deliver forthwith such property to the Administrator or to any officer or other employee of the Central government as may be authorised by the Central Government in this behalf.

(2) Any person who has, on the appointed day, in his possession or under his control any books, papers or other documents relating to Auroville (including the minutes books containing resolutions in relation to Auroville adopted by persons in charge of the management of the Society before the appointed day), the current cheque books relating to Auroville, any letters, memoranda, notes and other communication between him and the Society shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes and other communications), to the Administrator or to such person (being an officer or other employee of the Central Government) as may be authorised by the Central government in this behalf.

(3) Every person in charge of the management of Auroville immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of donations received, book debts , investments and belongings) forming part of, or relating to, Auroville immediately before the appointed day and all liabilities and obligations of the Society in relation to Auroville subsisting immediately before that day and also of all agreements entered into by the Society in relation to Auroville and in force immediately before the appointed day.

8. Relinquishment of management before the specified period :- (1) If at any time it appears to the Central Government that the purposes for which the management of Auroville had been taken over have been fulfilled or that for any other reason it is not necessary that the management of Auroville should remain vested in that Government, it may, notwithstanding anything contained in sub-section (1) of section 3, by order published in the Official gazette, relinquish the management of Auroville with effect from such date as may be specified in the order.

(2) On and from the date specified in the order made under sub-section (1), the management of the property of the Society forming part of, or relatable to, Auroville, shall vest in the Governing Body (by whatever name called) of the Society and such management shall be carried on in accordance with provisions of the West Bengal Societies Registration Act, 1961 (West Bengal Act XXVI of 1961), so, however, that the steps, if any, in relation to the management of the property of the Society forming part of, or relatable to, Auroville, may be taken after the publication of the order made under sub-section (1).

9. Tribunal :- (1) If any dispute or doubt arises as to whether any asset, right, leasehold, power, authority, privilege, property (whether movable or immovable) including any land, building, works, workshop, project, stores, instruments, machinery, automobile or other vehicles, cash balances, funds (including reserve funds), investments and book debts forms or form part of, or is or are relatable to, Auroville for the purposes of section 3, such dispute or doubt shall, at the request of the Society or the Administrator or any other person interested or at the instance of the Central Government, be referred to a Tribunal consisting of one member (being a person who is or has been a Judge of a High Court) to be appointed by the Central Government

(2) The Tribunal shall, for the purposes of any reference under sub-section (1), have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

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

(b) requiring the discovery and production of documents producible as evidence;

(c) recording evidence on oath;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matters as may be prescribed.

(3) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions (including the place or places at which it shall hold its sittings).

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.

10. Appeal :- Any person aggrieved by the decision of the Tribunal under section 9 may, within thirty days from the date of such decision, prefer an appeal to the High Court at Madras and such appeal shall be heard and disposed of by not less than two Judges of that High Court:

Provided that the High court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period aforesaid.

CHAPTER III

Miscellaneous

11. Act to have overriding effect :- The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

12. Contracts, etc. cease to have effect unless ratified by the Central Government :-

(1) Every contract (including any contract of employment or other arrangement entered into by the Society in relation to Auroville, the management of which has vested in the Central Government under section 3, and in force immediately before the appointed day, shall, on and from the date of expiry of ninety days from the appointed day, cease to have effect unless such contract or other arrangement has been, before the expiry of that period, ratified, in writing, by the Central Government; and in ratifying such contract or other arrangement, the Central Government may make such alterations or modifications therein as it may think fit:

Provided that the Central Government shall not omit to ratify any contract or other arrangement and shall not make any alteration or modification therein-

(a) unless it is satisfied that such contract or other arrangement is unduly onerous or has been entered into in bad faith or is detrimental to the interests of Auroville; and

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

(2) Notwithstanding anything contained in any law for the time being in force, no person in respect of who any contract or other arrangement is terminated, altered or modified under sub-section (1), or who ceases to exercise any powers or hold any office by reason of any provisions contained in sub-section (1) of section 4, shall be entitled to claim any compensation for the premature termination of the contract or other arrangement or for any alteration or modification therein or for the loss of his powers or office.

13. Exclusion of period of operation of Act :- In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the Society in respect of any matter arising out of any transaction relating to Auroville, the time during which this Act is in force shall be excluded.

14. Protection of action taken in good faith :- (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of section 5 by the Administrator 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.

15. Penalties :- Any person who.-

(a) having in his possession or custody or control any asset or property forming part of, or relating to, Auroville, wrongfully withholds such property from the Administrator or any person authorised under this Act, or

(b) wrongfully obtains possession of any such asset or property forming part of, or relating to, Auroville, or

(c) wilfully retains any asset or property forming part of, or relating to Auroville, or removes or destroys it, or

(d) wilfully withholds or fails to deliver any books, papers or other documents relating to Auroville which may be in his possession or custody or under his control to the Administrator or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish any inventory of properties and assets as provided in sub-section (3) of section 7, 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.

16. Offences by companies :- (1) Where an offence under this Act has been committed by a company, every person who, at the time 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 proceeded against and punished accordingly;

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 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.

17. Power to make rules :- (1) The Central government may, by notification in the Official Gazette, make rules to carry 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 term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council under sub-section (6) of section 6;

(b) the additional matters in respect of which the Tribunal shall have the powers of a civil court under clause (f) of sub-section (2) of section 9; and

(c) any other matter which is required to be, or may be, prescribed, or in respect of which rules may be made, under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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, 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.

18. Repeal and saving :- (1) the Auroville (Emergency Provisions) Ordinance, 1980(19 of 1980) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

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