

The Control of National Highways (Land and Traffic) Act, 2002
(13 of 2003)

(14th January, 2003)

An Act to provide for control of land within the National Highways, right of way and traffic moving on the National Highways and also for removal of unauthorised occupation thereon.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement**—(1) This Act may be called the Control of National Highways (Land and Traffic) Act, 2002.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.
2. **Definitions**—In this Act, unless the context otherwise requires—
 - (a) “appointed day”, in relation to a Tribunal, means the date on which such Tribunal is established under sub-section (1) of section 5;
 - (b) “building” means any work of construction done in any manner by use of any material and includes a farm building for agricultural purposes, plinth, doorstep, wall, drain, advertisement board and other things fixed with such building;
 - (c) “construct” with its grammatical variations, in relation to a building, means to construct, reconstruct, erect, re-erect, extend or alter structurally a building;
 - (d) “cost of land” means the market value of the land as determined by the competent authority of the State Government or the Government of the Union territory appointed for such determination, as the case may be;
 - (e) “Highway” means a National Highway declared as such under section 2 of the National Highways Act, 1956 (48 of 1956) and includes any Expressway or Express Highway vested in the Central Government, whether surfaced or unsurfaced, and also includes—
 - (i) all lands appurtenant to the Highway, whether demarcated or not, acquired for the purpose of the Highway or transferred for such purpose by the State Government to the Central Government;
 - (ii) all bridges, culverts, tunnels, causeways, carriageways and other structures constructed on or across such Highways; and
 - (iii) all trees, railings, fences, posts, paths, signs, signals, kilometre stones and other Highway accessories and materials on such Highways;
 - (f) “Highway Administration” means the Highway Administration established under section 3;
 - (g) “Highway land” means the land of which the Central Government is, or is deemed to be, the owner under sub-section (I) of section 23;

- (h) "land" includes benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (i) "means of access" means any permanent means of access, whether private or public, for vehicles of any kind;
- (j) "premises" means any land or building or part of a building and includes—
 - (i) the garden, grounds and out houses, if any, appertaining to such building or part of a building; and
 - (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Tribunal" means the National Highways Tribunal established under sub-section (1) of section 5;
- (m) "unauthorised occupation" means any occupation of the highway land, without permission under this Act for such purpose, by a person who—
 - (i) is trespasser on the Highway; or
 - (ii) for the time being is paying or is liable to pay to other person rent or any portion of the rent of the premises on a Highway; or
 - (iii) lives in or otherwise uses any premises on a Highway; or
 - (iv) is a rent-free tenant of any premises on a Highways; or
 - (v) is a licensee of any premises on a Highway for its possession;

or

 - (vi) is liable to pay damages to the owner of any premises on Highway for the use or possession of such premises;
- (n) "vehicle" means a barrow, sledge, plough, drag and any wheeled or tracked conveyance of any description capable of being used on a Highway.

6. Composition of Tribunal—(1) A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification in the Official Gazette, by the Central Government.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may authorise the Presiding Officer of one Tribunal to discharge also the functions of the Presiding Officer of another Tribunal.

7. Qualificaiton for appointment as Presiding Officer—A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he—

- (a) is qualified to be a Judge of a High Court; or
- (b) has been a member of the Indian Legal Service and has held a post not less than Grade II of that Service.

8. Term of office—The Presiding Officer of a Tribunal shall hold office from the date on which he enters upon his office till he attains the age of sixty-two years.

9. Staff of Tribunal—(1) The Central Government shall provide the Tribunal with such officers and employees as that Government thinks fit.

(2) The officers and employees of a Tribunal shall discharge their functions under general *superintendence of the Presiding Officer*.

(3) The salary, allowances and other conditions of service of the officers and employees of a Tribunal shall be such as may be prescribed.

10. Salary and allowances and other terms and conditions of service of Presiding Officer—The

salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Presiding Officer of a Tribunal shall be such as may be prescribed.

Provide that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after his appointment.

11. **Vacancies in Tribunal**– If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of a Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

12. **Resignation and removal**– (1) The Presiding Officer of a Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office.

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Presiding Officer of a Tribunal shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of a High Court, in which the Presiding Officer has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Presiding Officer referred to in sub-section (2).

13. **Financial and administrative powers of Presiding Officer**– The Presiding Officer of a Tribunal shall exercise such financial and administrative powers as may be prescribed.

14. **Jurisdiction, power and authority of Tribunal**– A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals from the orders passed or actions (except issuance or serving of notices) taken under sections 26, 27, 28, 36, 37 and 38 by the Highway Administration or an officer authorised on its behalf, as the case may be.

15. **Bar of Jurisdiction**– On and from the appointed day, not court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) or other authority, except the Tribunal shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to the matters specified in section 14.

16. **Procedure and powers of Tribunal**– (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal shall have powers to regulate its own procedure including the places at which it shall have its sittings.

(2) The appeal filed before the Tribunal under section 14 shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within four months from the date of the receipt of the appeal.

(3) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, 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;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an appeal or application for default or deciding it ex-parte;

- (g) setting aside any order of dismissal of any appeal or application for default or any order passed by it ex-parte; and
- (h) any other matter which may be prescribed.

(4) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

17. Conditions as to making of interim order— Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceeding relating to, an application or appeal unless—

- (a) copies of such application or appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or appeal is preferred; and
- (b) opportunity is given to such party to be heard in the matter:

Provided that the Tribunal and dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant or the appellant, as the case may be, which cannot be adequately compensated in money; but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

18. Execution of orders of Tribunal— (1) An order passed by the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of the civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order made by it to the civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

19. Limitation— Every appeal to the Tribunal under this Act shall be preferred within a period of sixty days from the date on which the order appealed against has been made:

Provided that an appeal may be admitted after the expiry of the said period of sixty days, if the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within the specified period.

20. Appointment of officers to act on behalf of Highway Administration— (1) The Highway Administration may, if it thinks fit after the approval of the Central Government, by notification in the Official Gazette, appoint such—

- (a) gazetted officer of the Central Government; or
- (b) gazetted officer of the State Government; or
- (c) officer of the National Highways, Authority of India constituted under section 3 of the National Highways Authority of India, Act, 1988 (68 of 1988) or any other authority constituted under any other enactment, equivalent to a gazetted officer of the Central Government or the State Government, to exercise such powers and discharge such functions of the Highway Administration as may be specified in the notification.

(2) The Highway Administration may specify in the notification under sub-section (1), the limits of the Highway within which or the length of the Highway on which an officer appointed under that sub-section shall exercise the powers and discharge the functions.

21. Delegation of powers— The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it (except the powers conferred by section 50) under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable by a State Government or any other authority or an officer of the State Government as may be specified in the notification.

22. Power to transfer jurisdiction— The Central Government may, at any time, by notification in the