

Bill No. 36-C of 2003

THE AIRPORTS AUTHORITY OF INDIA (AMENDMENT) BILL, 2003

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BILL

further to amend the Airports Authority of India Act, 1994.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Airports Authority of India (Amendment) Act, 2003.

Short title and commencement

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

5
55 of 1994

2. In the Airports Authority of India Act, 1994 (hereinafter referred to as the principal Act), in the long title, after the words "aeronautical communication stations", the words "for the purposes of establishing or assisting in the establishment of airports" shall be inserted.

Amendment of long title

10 3. In section 1 of the principal Act, in sub-section (3), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 1

"(aa) all private airports insofar as it relates to providing air traffic service, to issue directions under section 37 to them and for the purposes of Chapter VA."

4. In section 2 of the principal Act, after clause (n), the following clause shall be inserted, namely:

Amendment of section 2

(nn) "private airport" means an airport owned, developed or managed by—

(i) any person or agency other than the Authority or any State Government or

(ii) any person or agency jointly with the Authority or any State Government or both where the share of such person or agency, as the case may be, the assets of the private airport is more than fifty per cent.;

Amendment of section 12

5. In section 12 of the principal Act, in sub-section (3), after clause (a), the following clause shall be inserted, namely:—

"(aa) establish airports, or assist in the establishment of private airports, by rendering such technical, financial or other assistance which the Central Government may consider necessary for such purpose;"

Insertion of new section 12A. Lease by the Authority.

6. In Chapter III of the principal Act, after section 12, the following section shall be inserted, namely:—

"12A. (1) Notwithstanding anything contained in this Act, the Authority may, in the public interest or in the interest of better management of airports, make a lease of the premises of an airport (including buildings and structures thereon and appertaining thereto) to carry out some of its functions under section 12 as the Authority may deem fit:

Provided that such lease shall not affect the functions of the Authority under section 12 which relates to air traffic service or watch and ward at airports and civil enclaves.

(2) No lease under sub-section (1) shall be made without the previous approval of the Central Government.

(3) Any money, payable by the lessee in terms of the lease made under sub-section (1), shall form part of the fund of the Authority and shall be credited there as if such money is the receipt of the Authority for all purposes of section 22.

(4) The lessee, who has been assigned any function of the Authority under sub-section (1), shall have all the powers of the Authority necessary for the performance of such function in terms of the lease."

Insertion of new section 22A. Power of Authority to levy development fees at airports.

7. After section 22 of the principal Act, the following section shall be inserted, namely:—

"22A. The Authority may, after the previous approval of the Central Government in this behalf, levy on, and collect from, the embarking passengers at an airport the development fees at the rate as may be prescribed and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of—

(a) funding or financing the costs of upgradation, expansion or development of the airport at which the fee is collected; or

(b) establishment or development of a new airport in lieu of the airport referred to in clause (a); or

(c) investment in the equity in respect of shares to be subscribed by the Authority in companies engaged in establishing, owning, developing, operating or maintaining a private airport in lieu of the airport referred to in clause (a) or advancement of loans to such companies or other persons engaged in such activities."

Insertion of new Chapter VA.

8. After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

EVICTION OF UNAUTHORISED OCCUPANTS, ETC., OF AIRPORT PREMISES

28A. In this Chapter, unless the context otherwise requires,—

(a) "airport premises" means any premises—

(i) belonging to airport;

(ii) taken on lease for the purposes of airport;

(iii) acquired for the Authority under the provisions of the Land Acquisition Act, 1894 or any other corresponding law for the time being in force.

Explanation—For the removal of doubts, it is hereby declared that for the purposes of this clause, airport includes private airport;

(b) "eviction officer" means an officer of the Authority appointed as such by it under section 28B;

(c) "premises" means any land or building or part of a building, and includes—

(i) the garden, grounds and outhouses, 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 more beneficial enjoyment thereof;

(d) "rent", in relation to any airport premises, means the consideration payable periodically for the authorised occupation of the premises, and includes—

(i) any charge for electricity, water or any other service in connection with the occupation of the premises; and

(ii) any tax, by whatever name called, payable in respect of the premises;

(e) "Tribunal" means the Airport Appellate Tribunal established under sub-section (1) of section 28-I;

(f) "unauthorised occupation", in relation to any airport premises, means the occupation by any person of the airport premises without authority for such occupation and includes the continuance in occupation by any person of the airport premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

28B. The Authority may, by general or special order in writing, appoint such number of its officers, as it thinks fit, to be eviction officers for the purposes of this Chapter, and define the local limits within which, or the categories of airport premises in respect of which, the eviction officers shall exercise the powers conferred and perform the duties imposed, on eviction officers by or under this Chapter.

28C. (1) If the eviction officer is of the opinion that any persons are in unauthorised occupation of any airport premises and that they should be evicted, the eviction officer shall, in the manner hereinafter provided, issue a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made, and

(b) require all persons concerned, that is to say, all persons who are or may be, in occupation of, or claim interest in, the airport premises.—

Definitions

Appointment of eviction officers.

Issue of notice to show cause against order of eviction

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than seven days from the date of issue thereof, and

(ii) to appear before the eviction officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown and also for personal hearing, if such hearing is desired.

(3) The eviction officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the airport premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to the persons concerned.

(4) Where the eviction officer knows or has reasons to believe that any person is in occupation of the airport premises, then, without prejudice to the provisions of sub-section (3), he shall cause a copy of the notice to be served on every such person by post or by delivering or tendering it to that person or in such other manner as may be prescribed.

28D. (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 28C and any evidence produced by him in support of the same and after personal hearing, if any, given under sub-clause (ii) of clause (b) of sub-section (2) of section 28C, the eviction officer is satisfied that the airport premises are in unauthorised occupation, the eviction officer may make an order of eviction, for reasons to be recorded therein, directing that the airport premises shall be vacated, on such date as may be specified in the order, by the persons who may be in occupation thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the airport premises.

(2) If any person refuses or fails to comply with the order of eviction on or before the date specified in the order or within fifteen days of the date of publication under sub-section (1), whichever is earlier, the eviction officer or any other officer duly authorised by the eviction officer in this behalf may, after the date so specified or after the expiry of the period aforesaid, whichever is earlier, evict that person from, and take possession of, the airport premises and may, for that purpose, use such force as may be necessary.

28E. (1) Where any persons have been evicted from any airport premises under section 28D, the eviction officer may, after giving ten days' notice to the persons from whom possession of the airport premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the Central Government or the corporate authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the eviction officer to be entitled to the same.

Provided that where the eviction officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the Tribunal and the decision of the Tribunal thereon shall be final.

28F. (1) No person shall—

- (a) erect or place or raise any building or any movable or immovable structure or fixture;
- (b) display or spread any goods;
- (c) bring or keep any cattle or other animal,

on or against or in front of, any airport premises except in accordance with the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy such airport premises.

Eviction of unauthorised occupants.

Disposal of property left on airport premises by unauthorised occupants.

Power to remove unauthorised constructions, etc.

5 (2) Where any building or other immovable structure or fixture has been erected, placed or raised in any airport premises in contravention of the provisions of sub-section (1), the eviction officer may serve on the person erecting such building or other structure or fixture, a notice requiring him either to remove or show cause why he shall not remove such building or other structure or fixture to or from the airport premises within such period, not being less than seven days but not exceeding thirty days as may be specified in the notice, and on the omission or refusal of such person to show cause, or to remove such building or other structure or fixture from the airport premises, or where the cause shown is not, in the opinion of the eviction officer, sufficient, the eviction officer may, by order, remove or cause to be removed the building or other structure or fixture from the airport premises and the cost of such removal shall be recoverable from such person as an arrear of land revenue.

10 (3) Where any movable structure or fixture has been erected, placed or raised, or any goods have been displayed or spread or any cattle or other animal has been brought or kept on any airport premises in contravention of the provisions of sub-section (1) by any person, the eviction officer may, by order, remove or cause to be removed without notice, such structure, fixture, goods, cattle or other animal, as the case may be, from the airport premises and the cost of such removal shall be recoverable from such person as an arrear of land revenue.

15 28G. (1) Where any person is in arrears of rent payable in respect of airport premises, the eviction officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

Power to require payment of rent or damages in respect of airport premises

20 (2) Where any person is, or has at any time been, in unauthorised occupation of any airport premises, the eviction officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order.

25 (3) While making an order under sub-section (1) or sub-section (2), the eviction officer may direct that the arrears of rent or, as the case may be, damages shall be payable together with simple interest at such rate as may be prescribed.

30 (4) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such period not being less than seven days but not exceeding thirty days as may be specified in the notice as to why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the eviction officer.

35 28H. An eviction officer shall, for the purpose of holding any inquiry into this Chapter, 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:—

Powers of eviction officers

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

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

45 28-I. (1) The Central Government shall, by notification in the Official Gazette, establish a Tribunal, to be known as the Airport Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Establishment of Tribunal

(2) The Tribunal shall consist of a Chairperson (hereinafter referred to in this Act, as the Chairperson of the Tribunal).

(3) The head office of the Tribunal shall be at New Delhi

Provided that the Tribunal may hold its sittings at other places as the Chairperson of the Tribunal may decide, from time to time, having taken into consideration the convenience to decide the appeals before the Tribunal.

(4) The Chairperson of the Tribunal shall be appointed by the Central Government after consultation with the Chief Justice of India.

(5) A person shall not be qualified for appointment as Chairperson of the Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(6) The Chairperson of the Tribunal shall hold office as such for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(7) The salaries and allowances payable to, and other terms and conditions of service of the Chairperson of the Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor other terms and conditions of service of the Chairperson of the Tribunal shall be varied to his disadvantage after his appointment.

Resignation
and removal.

28J. (1) The Chairperson of the Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson of the Tribunal 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 the earliest.

(2) The Chairperson of the 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 the Supreme Court in which such Chairperson had been informed of the charges against him and given 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 Chairperson of the Tribunal.

Appeals to
Tribunal.

28K. (1) Any person aggrieved by an order of the eviction officer under this Chapter may, within fifteen days from the date of such order, prefer an appeal to the Tribunal in such form as may be prescribed:

Provided that the Tribunal may entertain any appeal after the expiry of the said period of fifteen days, but not after the period of thirty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Tribunal shall, after giving the appellant and the eviction officer an opportunity of being heard, pass such order as it thinks fit.

(3) The Tribunal shall dispose of the appeal within thirty days from the date of filing the appeal:

Provided that the Tribunal may, for reasons to be recorded in writing, dispose of the appeal within a further period of fifteen days.

(4) An order of the Tribunal passed under sub-section (2) shall be executable as a decree of a civil court and for executing the same the Tribunal shall send a copy thereof to the civil court having jurisdiction which shall execute the same, as expeditiously as may be possible, as if such order is a decree passed by that court.

(5) On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Chapter by the Tribunal in relation to any matter, no court (except the Supreme Court under article 136 and the High Court under articles 226 and 227 of the Constitution) shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such matter.

28L. (1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to lay down and regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

Procedure
and powers of
Tribunal

(2) The Tribunal shall have, for the purpose of discharging its functions under this Chapter, 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) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

(3) 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 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.

28M. Subject to the provisions of this Act, every order made by an eviction officer or the Tribunal under this Chapter shall be final and shall not be called in question in any suit, application, execution or other proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Chapter.

Finality of
orders.

28N. (1) Whoever, unlawfully occupies any airport premises, shall be punishable with imprisonment for a term which may extend to six years and with fine.

(2) Whoever fails to comply with any order of the eviction officer or the Tribunal under this Chapter shall be punishable with imprisonment for a term which may extend to seven years and with fine.

Offences
under this
Chapter

(3) If any person who has been evicted from any airport premises under this Chapter again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to ten years and with fine.

(4) The court may, while convicting a person under sub-section (3), make an order for evicting that person summarily and he shall also be liable to such eviction without prejudice to any other action that may be taken under this Chapter.

28-O. (1) Where any offence under this Chapter has been committed by a company, every person who, at the time the offence was committed, was directly 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 provided in this Chapter, if he proves that the offence was committed without his knowledge or he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Chapter 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 neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also 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.

Cognizance of offences.

28P. No court shall take cognizance of any offence under this Chapter except on a complaint made by the Authority, eviction officer or any other officer authorised in this behalf and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Chapter.

Power to obtain information.

28Q. If the eviction officer has reason to believe that any persons are in unauthorised occupation of any airport premises, he or any other officer authorised in this behalf may require those persons or any other person to furnish information in relation to the names and other particulars of the persons in occupation of the airport premises and every person so required shall be bound to furnish the information in his possession.

Officers, etc., to aid and assist.

28R. It shall be the duty of all the officers of the Government including police officers and any local authority to aid and assist the eviction officer or other officer of the Authority in the discharge of their functions under this Chapter."

Amendment of section 33.

10. In section 33 of the principal Act, after the words "other employee of the Authority", the words "or the Chairperson of the Tribunal" shall be inserted.

Amendment of section 41.

11. In section 41 of the principal Act, in sub-section (2),—

(a) after clause (e), the following clause shall be inserted, namely:—

"(ee) the rate of development fees and the manner of regulating and utilising the fees under section 22A;";

(b) after clause (g), the following clauses shall be inserted, namely:—

(gi) the other manner of serving notice under sub-section (3) of section 28C;

(gii) the other manner of serving notice under sub-section (4) of section 28C;

(giii) the principles of assessment of damages under sub-section (3) of section 28G;

(giv) the rate of simple interest under sub-section (3) of section 28G;

(gv) any other matter under clause (c) of section 28H;

(gvi) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson of the Tribunal under sub-section (3) of section 28-I;

(gvii) the procedure for the investigation of misbehaviour or incapacity of the Chairperson of the Tribunal under sub-section (3) of section 28J;

(gviii) the form of appeal under sub-section (1) of section 28K;

(gx) any other matter under clause (c) of sub-section (2) of section 28K.

Power to remove difficulties.

12. (1) If any difficulty arises in giving effect to the provisions of the principal Act amended by this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the principal Act as amended by this Act, as appears to it to be necessary or expedient for removing the difficulty;

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

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.