

THE ORISSA ESSENTIAL SERVICES (MAINTENANCE) (No. 2) ORDINANCE, 1974

[Promulgated by the Governor of Orissa on the 1st May 1974, Published in an extraordinary issue of the Orissa Gazette, dated the 1st May 1974]

AN

ORDINANCE

TO PROVIDE FOR THE MAINTENANCE OF CERTAIN ESSENTIAL SERVICES AND THE NORMAL LIFE OF THE COMMUNITY IN THE STATE OF ORISSA

WEREAS the Legislature of the State of Orissa is not in session;

AND WHEREAS the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for the maintenance of certain essential services in the State of Orissa in the manner hereinafter appearing;

AND WHEREAS instructions from the President have been received to promulgate an Ordinance for the said purpose;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Twenty fifth Year of the Republic of India :—

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Orissa Essential Services (Maintenance) No. 2) Ordinance, 1974.

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

(3) It shall come into force at once.

Definitions

2. (1) In this Ordinance, unless the context otherwise requires—

(a) "essential service" means—

(i) any service connected with the supply or distribution of water and with maintenance of water works ;

(ii) any service connected with hospitals and dispensaries ;

(iii) any service connected with the production, supply or distribution of electricity including service under the Orissa State Electricity Board constituted under the Electricity (Supply) Act, 1948 ;

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(iv) any service in connection with the affairs of the State not being a service specified in any of the foregoing sub-clauses which the State Government may, by notification, declare to be an essential service for the purposes of this Ordinance;

(v) any other service connected with any matter with respect to which the State Legislature has power to make laws and which the State Government, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community, may, by notification, declare to be an essential service for the purposes of this Ordinance;

(b) "strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment and includes—

(i) unauthorised absence from duty in pursuance of a common understanding among the persons who unauthorisedly absent themselves from duty or under the direction of any other person or persons;

(ii) refusal to work overtime where such work is necessary for the maintenance of any essential service ;

(iii) any other conduct which is likely to result in, or results in cessation or substantial retardation of work in any essential service.

(2) Every notification issued under sub-clause (iv) or (v) of clause (a) of sub-section (1) shall be laid before the Legislative Assembly immediately after it is made if it is in session and on the first day of the commencement of the next session of the Assembly, if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the re-assembly of the Legislature, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by the Legislature.

Power to prohibit strikes in certain employments.

3. (1) If the State Government is satisfied that in the public interest, it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in any essential service specified in the Order.

(2) An Order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons affected by the Order.

(3) An Order made under sub-section (1) shall be in force for six months only, but the State Government may, by a like Order, extend it for any period not exceeding six months if it is satisfied that in the public interest, it is necessary or expedient so to do.

(4) Upon the issue of an Order under sub-section (1)—

(a) no person employed in any essential service to which the Order relates shall go or remain on strike; and

(b) any strike declared or commenced, whether before or after the issue of the Order, by persons employed in any such service shall be illegal.

Penalty for illegal strike.

4. Any person who commences a strike which is illegal under this Ordinance or goes or remains on, or otherwise takes part in, any such strike shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for instigation, etc.

5. Any person who instigates or incites other persons to take part in, or otherwise acts in furtherance of or does any act preparatory to, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Penalty for giving financial aid to illegal strikes.

6. Any person who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Power to arrest without warrant.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Ordinance.

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Ordinance to override other laws.

8. The provisions of this Ordinance and of any Order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947 or in any other law for time being in force.

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B. D. JATTI

Governor of Orissa

Dated the 1st May 1974