

ORISSA ORDINANCE No. 1 OF 1974

THE ORISSA ESSENTIAL SERVICES (MAINTENANCE) ORDINANCE, 1974,

*[Promulgated by the Governor of Orissa on the 6th February 1974,
Published in an extraordinary issue of the Orissa Gazette,
dated the 6th February 1974]*

AN

ORDINANCE

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

WHEREAS the President of India has, by a proclamation under Article 356 of the Constitution published in the notification of the Government of India in the Ministry of Home Affairs No. GSR. 155 (E), dated the 3rd March 1973, declared that the powers of the Legislature of the State of Orissa shall be exercisable by or under the authority of Parliament and has assumed to himself all powers vested in and exercisable by the Governor of Orissa;

AND WHEREAS the President, by an order published in the notification of the Government of India in the aforesaid Ministry No. GSR. 156 (E), dated the 3rd March 1973, has directed that all the powers vested in or exercisable by the Governor of Orissa which have been assumed by him as aforesaid shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of Orissa;

AND WHEREAS the Parliament 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 read with the aforesaid proclamation and order made by the President, 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) 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 ;

- (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 each House of Parliament immediately after it is made if it is in session and on the first day of the commencement of the next session of the House 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 reassembly of Parliament, as the case may be, unless before the expiration of that period, a resolution approving the issue of the notification is passed by both Houses of Parliament.

Explanation—Where the Houses of Parliament are summoned to reassemble on different dates, the period of forty days shall be reckoned from the later of those dates.

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
strikes.

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 with-
out warrant.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Ordinance.

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 the time being in force.

DATED THE 6th FEBRUARY 1974

B. D. JATTI

GOVERNOR OF ORISSA