

ORISSA ORDINANCE No. 14 OF 1985

THE ORISSA REQUISITIONING OF GOODS VEHICLES
ORDINANCE, 1985

[Promulgated by the Governor of Orissa on the 27th November 1985 published in an extraordinary issue of the *Orissa Gazette*, dated the 27th November, 1985]

AN

ORDINANCE

TO PROVIDE FOR THE REQUISITIONING OF GOODS
VEHICLES PLYING UNDER PUBLIC CARRIERS
PERMIT FOR SECURING BETTER AND
MORE CO-ORDINATED GOODS
TRANSPORT SERVICE IN THE STATE
AND MATTERS CONNECTED
THEREWITH

WHEREAS, 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 make provision for requisitioning of goods vehicles plying under the public carriers permit for securing better and more co-ordinated goods transport service in the State in the manner hereinafter appearing;

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

Short title,
extent and
Commence-
ment.

1. (1) This Ordinance may be called the Orissa Requisitioning of Goods Vehicles Ordinance, 1985.

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

(3) It shall come into force at once.

Definition

2. In this Ordinance unless the context otherwise requires:—

(a) "Government" means the State Government of Orissa;

(b) "goods vehicle" has the same meaning as assigned under clause (8) of Section 2 of the Motor Vehicles Act, 1939; and

4 of 1939

(c) "owner" includes where the person in possession of goods vehicle is a minor the guardian of such minor and in relation to goods vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement.

Power to
requisition
goods
Vehicle.

3. (1) If in the opinion of the Collector it is necessary or expedient so to do for providing better and more co-ordinated goods transport service in the State or to meet any emergency in the maintenance of such service, he may by order in writing, requisition any goods vehicle along with the permit and may make such further orders as appear to it to be necessary or expedient in connection with the requisition.

(2) After requisition of the goods vehicle under sub-section (1), the Collector shall deliver possession of the same to such officer in the Food and Civil Supplies Department as Government in the Food and Civil Supplies Department may by order specify to operate the same for the purpose of goods transport and the officer may use and deal with it in such manner as may appear to him to be expedient for the said purpose and such use by the said officer shall be deemed to have been permitted by the owner of the vehicle.

(3) Without prejudice to any powers conferred by this Ordinance any person authorised by Collector may enter any premises and inspect any goods vehicle therein or thereon for the purpose of determining whether, and if so, in what manner any order under this Section should be made in relation to such goods vehicle or with a view to securing compliance with any order made under this Section.

(4) Save as otherwise expressly provided in this Ordinance any requisition made or order issued under the provisions of this Ordinance shall be deemed to have been served on the owner, if it is served on the person having possession or control of the goods vehicle and on receipt thereof the owner shall comply with the requisition or the order, as the case may be, forthwith.

(5) When any owner or person having possession or control of the goods vehicle refuses or avoids in any manner to receive the order or cannot be found after using all due and reasonable diligence, or is absent from his residence when the order is sought to be served on him and there is no likelihood of his being found at the residence within a reasonable time, affixture of the requisition or the order, as the case may be, on the out-door or some other conspicuous part of his residence in presence of two witnesses shall amount to sufficient service of the requisition or as the case may be, the order on the owner.

(6) It shall be competent for the Collector or the person authorised by him to take possession of the goods vehicle, the materials and documents connected therewith and remove or cause the same to be removed if the owner or the person having possession or control over the goods vehicle does not comply with the requisition or order of the competent authority.

(7) While taking possession of a goods vehicle either under sub-section (4) or sub-section (6), the Collector or the person authorised by him in that behalf shall make an inventory of the goods vehicle, materials and documents connected therewith in presence of the owner or the person having possession and control of the goods vehicle and two witnesses and obtained their signature thereon.

Explanation—Where the owner or the person having possession or control of the goods vehicle refuses or avoids to be present at the preparation of the inventory or to sign it, such inventory prepared in the presence and under the signature of two witnesses shall be sufficient compliance of this sub-section.

(8) The officer shall make all arrangements for garaging, maintenance and repair of every goods vehicle requisitioned and the cost shall be recoverable from the owner.

Release from requisition. 4. (1) The Collector may, at any time release from requisition any goods vehicle requisitioned under Section 3 and shall, as far as possible, restore the goods vehicle in as good a condition as it was when possession thereof was taken, subject only to the changes caused by reasonable wear and tear.

(2) Where any goods vehicle is to be released from requisition, the Collector, may after such enquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing to whom possession of the goods vehicle shall be given.

(3) The delivery of possession of the requisitioned goods vehicle to the person specified in the order made under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of such goods vehicle and the requisition shall be at an end :

Provided that nothing in this section shall prejudice any rights in respect of the goods vehicle which any other person may be entitled to by due process of law to enforce against the person to whom the possession of the goods vehicle is so delivered.

(4) Where the person to whom the possession of any requisitioned goods vehicle is to be delivered cannot be found and has no legal agent or other person competent to accept delivery on his behalf, the Collector shall cause a notice declaring that the goods vehicle is released from requisition to be published in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the goods vehicle specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any amount or other claims in respect of the goods vehicle for any period after the said date.

Determina-
tion of
amount.

5. Whenever any goods vehicle is requisitioned under section 3 there shall be paid to the owner thereof an amount which shall be determined by the Collector on the basis of the fares or rates prevailing in the locality for the hire of such goods vehicle :

Provided that where the owner of such goods vehicle is aggrieved by the amount so determined shall make an application to the Government in the Food and Civil Supplies Department within one month from the date the first payment is due and the State Government after giving him an opportunity of being heard shall determine the amount to be paid to the owner and the amount so determined shall be final.

Payment of
amount.

6. Any amount determined by the Collector or Government, as the case may be, for requisitioning any goods vehicle shall be paid to the owner in such manner as the Collector may by order determine within the 10th day of the month following the month for which the amount is payable :

Provided that where payment of the amount is delayed beyond the said date interest shall be payable on the amount or part thereof in arrear at the rate of nine per cent per annum from the date of default.

Payment of
dues.

7. (1) The Collector may direct any owner to make payment of any tax or fee payable in respect of the goods vehicle under requisition within such date as may be specified in the order.

(2) If the owner fails to pay such tax or fee within the date so specified it shall be competent for the Collector to pay and recover the same by deduction from the amount payable to the owner.

Power to
require
information.

8. The Collector may with a view to requisitioning any goods vehicle or taking any other action with respect thereto in pursuance of the provisions of this Ordinance by order in writing :—

(a) require any person to submit to it within such time or at such interval as may be specified in that order such information or document in his possession relating to the goods vehicle as may be so specified being information and documents reasonably necessary for carrying into effect provisions in this Ordinance.

(b) direct that the owner or person in-charge of the goods vehicle shall not without the permission of the Collector dispose of it or remove it from the premises in which it is kept till the expiry of such period as may be specified in the order.

Penalty for
contraven-
tion of
orders.

9. If any person contravenes any order made under section 3 or section 8, he shall be punishable with imprisonment which may extend to one year or fine not exceeding one thousand rupees or with both.

Delegation
of powers.

10. The powers conferred on the Government shall, under such conditions, if any, as may be specified in the direction, be exercised also by such officer as may be so specified.

Protection
of action
taken.

11. No suit or prosecution or other proceeding shall lie against any person for anything which is in good faith done or omitted to be done in pursuance of any order or rules made under this Ordinance and no suit or legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or omitted to be done in pursuance of this Ordinance or rules made thereunder.

Power to
make rules.

12. The State Government by notification in the Official Gazette may make rules for carrying out the purposes of this Ordinance.

B. N. PANDE

Dated the 27th November 1985

Governor of Orissa