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Committee For Protection Of ... vs Oil And Natural Gas Commission ... on 23 March, 1990
State vs B.M.N. Rao And Ors. on 18 August, 1997

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Central Government Act

The Oil And Natural Gas Commission Act, 1959

THE OIL AND NATURAL GAS COMMISSION ACT, 1959

ACT NO. 43 OF 1959 [18th September, 1959.]

An Act to provide for the establishment of a Commission for the development of petroleum resources and the production and sale of petroleum and petroleum products produced by it and for matters connected therewith.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:-

CHAP

PRELIMINARY

CHAPTER I PRELIMINARY

1. Short title extent and commencement.

(1) This Act may be called the Oil and Natural Gas Commission Act, 1959 .

(2) It extends to the whole of India [1] .

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

Definitions.

2. Definitions. In this Act, unless the context otherwise requires,-

(a) " Chairman" means the chairman of the Commission

(b) " Commission" means the Oil and Natural Gas Commission established under section 3;

(c) " existing Organisation" means the body set up in pursuance of the resolution of the Government of India, No. 22 29 55-ONG, dated the 14th August, 1956 ;

(d) " Fund" means the fund referred to in section 19

(e) " member" means a member of the Commission and includes the chairman;

(F) " petroleum" has the same meaning as in the Petroleum Act, 1934 , and includes natural gas; (30 of 1934).

(g) " prescribed" means prescribed by rules made under this Act.

1. The words," except the State of Jammu and Kashmir" omitted by Act 38 of 1962 s. 2.

2. 15th October, 1959, see Notification No. S. O. 2302, dated 14th October, 1959, Gazette of India, Extraordinary, 1959, Pt. II, Sec. 3 (ii), p. 515. This Act came into force in Pondicherry on the lst October, 1963, vide Reg. 7 of 1963, s. 3 and Sch. I.

CHAP THE OIL AND NATURAL GAS COMMISSION CHAPTER II THE OIL AND NATURAL GAS COMMISSION

3.

(1) Establishment and incorporation of the Commission. With effect from such date' as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Commission to be called the Oil and Natural Gas Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

4. Composition of the Commission. The Commission shall consist of a chairman and not less than two, and not more than eight, other members appointed by the Central Government and the members may be required to render whole- time or part- time service, as the Central Government may direct; Provided that one of the members shall be a whole- time Finance Member in charge of the financial matters relating to the Commission: Provided further that the Central Government may, if it thinks fit, appoint one of the members as vice- chairman of the Commission.

5.

(1) Term of office and conditions of service of members. The term of office and conditions of service of the chairman and other members shall be such as may be prescribed: [Provided that the Central Government may-

(a) terminate the appointment of any whole- time member, who is not a servant of the Government, after giving him notice for a period of not less than three months or in lieu thereof on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate the appointment of any part- time member who is not a servant of the Government after giving him notice for such period as may be prescribed; and

(c) terminate at any time the appointment of any member who is servant of the Government.]

(2) Any member may resign his office by giving notice in writing [3] for such period as may be prescribed,] to the Central Government,

1. 15th October, 1959, see Notification No. S. O. 2303, dated 14th October., 1959. Gazette of India, Extraordinary, 1059, Pt. 11, Sec. 3 (ii), p. 515.

2. Subs. by Act 17 of 1981, s. 2, for the proviso. 3 Ins. by s. 2, ibid.

and on such resignation being notified in the Official Gazette by that Government, shall be deemed to have vacated his office.

(3) A casual vacancy created by the resignation of a member under sub- section (2) or for any other reason may be filled by fresh appointment,

6. Disqualifications for beining appointed, or for continuing, as member of the Commission. A person shall be disqualified for being appointed or for continuing as a member, if he has, directly or indirectly, any interest in a subsisting contract made with, or in any work being done for, the Commission.

7. Temporary absence of member. If any member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving

the vacation of his appointment the Central Government may appoint another person to act in his place during his absence.

8. Vacancies, etc., not to invalidate acts and proceeding of the Commission. No act or proceeding of the Commission shall be invalid by reason only of the existence of any vacancy among its members or any defect in, the constitution thereof.

9.

(1) Meetings of the Commission. The Commission shall meet at such times and places and shall, subject to the provisions of sub- sections (2) and (3), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made under this Act.

(2) The Chairman or, in his absence, the vice- chairman, if any, or in the absence of the chairman and of the vice- chairman if any, any member chosen by the members from among themselves, shall preside at a meeting of the Commission.

(3) All questions at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting, and in the case of an equality of votes, the chairman or, in his absence, the person presiding, shall have a second or casting vote: Provided that the person presiding may in his discretion, reserve any matter for the consideration of the Central Government.

10.

(1) Temporary association of persons with the commission for particular purpose. The Commission may associate with itself in such manner and for such purposes, as may be provided by regulations made under this

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Act, any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) A person associated with it by the Commission under sub- section (1) for any purpose shall have a right to take part in the discussions of the Commission relevant to that purpose, but shall not have a right to, vote at a meeting of the Commission, and shall not be a member for any other purpose.

Authentication of orders and other instruments of the Commission.

11. Authentication of orders and other instruments of the Commission. All orders and decisions of the Commission shall be authenticated by the signature of the chairman or any other member authorised by the Commission in this behalf, and all other instruments issued by the Commission shall be authenticated by the signature of an officer of the Commission authorised in like manner in this behalf.

Staff of the Commission.

12.

(1) Staff of the Commission. Subject to the provisions of section 15, the Commission may, for the purpose of enabling it efficiently to perform its functions or exercise its powers under this Act, appoint such number of employees as it may consider necessary

(2) The functions and the terms and conditions of service of such employees shall be such as may be provided by regulations made under this Act.

Transfer of service of existing employees to the Commission.

13.

(1) Transfer of service of existing employees to the Commission. Subject to the provisions of this Act, every person employed by the existing Organisation immediately before the date of establishment of the Commission shall, on and from such date, become an employee of the Commission with such designation as the Commission may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held the same on such date if the Commission had not been established and shall continue to do so unless and until his employment in the Commission is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Commission Provided that-

(a) the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government;

(b) any service rendered in the existing Organisation by any such person shall be deemed to be service under the Commission; and

(c) all persons employed by the Commission on the date of its establishment, who, immediately before such date, hold, in a permanent or quasi- permanent capacity, posts in connection

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with the affairs of the Union or of any State, but not posts in the existing Organisation, shall be treated as Government servants on foreign service with the Commission.

(2) The Commission may employ any person who has become its employee under sub- section (1), in such capacity as it thinks fit, and every such employee shall be bound to discharge his functions accordingly. CHAP POWERS AND FUNCTIONS OF THE COMMISSION CHAPTER III POWERS AND FUNCTIONS OF THE COMMISSION

Functions of the Commission.

14.

(1) Functions of the Commission. Subject, to the provisions of this Act, the functions of the Commission shall generally be to plan, promote, organise and implement programmes for the development of petroleum resources and the production and sale of petroleum and petroleum products produced by it and to perform such functions as the Central Government may, from time to time, assign to the Commission.

(2) In particular and without prejudice to the generality of the foregoing provision, the Commission may take such steps as it thinks fit-

(a) for the carrying out of geological and geophysical surveys for exploration of petroleum;

(d) to undertake, assist or encourage and promote the production to prove and estimate the reserves of petroleum;

(c) to undertake encourage and promote such other activities as may lead to the establishment of such reserves;

(d) to undertake, assist or encourage and promote the production of petroleum from such reserves and its refining;

(e) for the transport and disposal of natural gas and refinery gases produced by the Commission; Provided that no industry, which will use any of these gases as a raw materials shall be set up by the Commission without the previous approval of the Central Government;

(f) to undertake, encourage and, promote geological, chemical and other scientific investigations whether in or outside the laboratory;

(g) to undertake, assist or encourage the collection, maintenance and publication of statistics, bulletins and monographs;

(gg) [1] to promoto and from companies in compliance with the requirements of the Companies Act, 1956 for any of the purposes aforesaid;]

(h) to perform any other function which is supplemental, incidental or consequential to any of the functions aforesaid or which may be prescribed.

Powers of the Commission.

15. Powers of the Commission. The Commission may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act: [3] Provided that before exercising its powers in respect of the following matters, it shall obtain the previous approval of the Central Government, namely:-

(a) the creation of any post, the salary or honorarium of which would either be more than such amount as may be pres- cribed, or where no such amount has been prescribed, more than rupees two thousand seven hundred and fifty or be on a scale the maximum of which exceeds such amount as may be prescribed or where no such amount has been prescribed, exceeds rupees two thousand seven hundred and fifty, and the appointment of'[any person other than the person referred to in clause (aa)] to any such post;

(aa) [5] the employment, whether by fresh appointment, re- employment, extension of service or otherwise, of any person who has attained the age of fifty- eight years to a post, where the pay (including pension and pensionary equivalent of retirement benefits) of the post exceeds 2, 500 rupees per mensem or where the minimum of the pay scale of the post, proposed to be given to such person is 2, 500 rupees or more per mensem;]

(b) the implementation of any scheme or proposal which will involve a capital expenditure exceeding such amount as may be prescribed, or where no such amount has been prescribed, exceeding fifty lakhs of rupees;

(c) the disposal of any property, right or privilege the original or book value of which exceeds such amount as may be

1. Ins. by Act 38 of 1962, s. 3. 2 Sub- section (3) omitted by Act 23 of 1977, s. 2. 3 Subs. by s. 3. ibid., for the proviso. 4 Subs. by Act 17 of 1981, s. 3, for" any person". 5 Ins. by s. 3, ibid.

prescribed, or where no such amount has been prescribed, exceeds ten lakhs of rupees.] CHAP FINANCE, ACCOUNTS, AUDIT AND REPORTS CHAPTER IV FINANCE, ACCOUNTS, AUDIT AND REPORTS

Capital of the Commission.

16.

(1) Capital of the Commission. All non- recurring expenditure incurred by the Central Government for or in connection with the existing Organisation up to the date of establishment of the Commission and declared to be capital expenditure by that Government, shall be treated as capital expenditure provided by that Government to the commission, and shall be brought into the books of the Commission.

(2) The Central Government may, after due appropriation made by Parliament in this behalf, provide any further capital that may be re- quired by the- Commission for the carrying on of the business of the Commission or for any purpose connected therewith on such terms and conditions as that Government may determine,

Vesting of property in the Commission.

17. Vesting of property in the Commission. All property acquired and all works constructed or under construction by or on behalf of the Central Government for the purposes of the existing Organisation

up to the date of establishment, of the Commission shall, on such date, vest in the Commission and all income derived and all expenditure incurred in this behalf shall be brought into the books of the Commission.

Commission to have rights liabilitions and obligations of the CentralGovernment in certain cases.

18. Commission to have rights liabilitions and obligations of the Central Government in certain cases. All rights, liabilities arid, obligations of the Central Government which, whether arising out of any contract or otherwise, were acquired or incurred by it in connection with the existing Organisation or for any of the purposes referred to in this Act, before the date of establishment of the Commission shall be deemed to have been acquired or incurred by the Commission and shall be the rights, liabilities and obligations res- pectively of the Commission.

Fund of the Commission.

19.

(1) Fund of the Commission. The Commission shall have its own Fund and all receipts of the Commission, whether from grants made by the Central Government or otherwise, shall be carried thereto and all payments by the Commission made therefrom.

(2) The Commission may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund.

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(3) All monies of the Commission shall be deposited in the Reserve Bank of India or with the agents of that Bank [1] or in a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or in such other bank as may be prescribed, or] in a Government Treasury, or be invested in such securities as may be approved by the Central Government.

Browing of money.

20. Browing of money. The Commission may, with the previous approval of the Central Government borrow money in the open market or otherwise for the purposes of carrying out its functions under this Act.

Budget.

21.

(1) Budget. (a) The Commission shall, by such date in each year as may be prescribed, submit to the Central Government for approval a budget in the prescribed form for the next financial year, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government, during that financial year.

(b) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(2) Subject to the provisions of sub- section (3), no sum shall be expended by or on behalf of the Commission unless the expenditure is covered by provision in the budget approved by the Central Government.

(3) The Commission may sanction any re- appropriation from one head of expenditure to another or from a provision made for one scheme to that for another: Provided that, except with the previous approval of the Central Government-

(a) no re- appropriation from the head" loan" to another head of expenditure and vice versa in the budget shall be sanctioned by the Commission;

(b) no re- appropriation which has the effect of augmenting the provision under any head of expenditure as approved by the Central Government by more than twenty per cent [2] shall be made.

Annual reports, accounts and audit.

22.

(1) Annual reports, accounts and audit. The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including profit and loss account and balance sheet in accordance with such general

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1. Subs. by Act 23 of 1977, s. 4, for certain words. 2 The words" or seven and a half lakhs of rupees, whichever is less, Omitted by Act 38 of 1962, s. 5.

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directions as may be issued, and in such form as may be prescribed, by the Central Government in consultation with the Comptroller and Auditor- General of India.

(2) The accounts of the Commission shall be audited annually by the Comptroller and Auditor-General of India and any expenditure in- curred by him in connection with such audit shall be payable by the Commission to the Comptroller and Auditor- General of India.

(3) The Comptroller and Auditor- General of India and any person appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor- General has in connection with the audit of Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor- General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Returns and reports.

23.

(1) Returns and reports. The Commission shall furnish to the Central Government at such time and in such form and in such manner, as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the development of petroleum resources and the production and sale of petroleum and petroleum products produced by the Commission as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub- section (1), the Commission shall as soon as possible after the commencement of each financial year, submit to the Central Government a report in such form and before such date as may be prescribed, giving a true and full account of its activities, policy and programme during the previous financial year and an account of the activities likely to be undertaken during the current financial year.

(3) A copy of the report received under sub- section (2) shall be laid before each House of Parliament.

CHAP MISCELLANEOUS CHAPTER V MISCELLANEOUS

24. [1] Compulsory acquisition of land for the Commission, Any land - required by the Commission for carrying out its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the Commission under the provisions of the Land Acquisition Act, 1894 .]

25. Power of entry. Any employee of the Commission, generally or specially authorised by it, may at all reasonable times enter upon any land or premises and there do such things as may be reasonably necessary for the purpose of lawfully carrying out any of its works or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of functions by the Commission under this Act.

26. Deligation of powers and duties. The Commission may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any person specified in this behalf in the order.

Members and employees of the Commission to be public servants.

27. Members and employees of the Commission to be public servants. All members and employees of the Commission, shall, when acting or purporting to act in pursuance of the provisions of this Act, or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken under Act.

28. Protection of action taken under Act. No suit, prosecution or other legal proceeding shall lie against the Commission or any member or employee of the Commission for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Liability of Commission to pay taxes and fees.

29. Liability of Commission to pay taxes and fees. The Commission shall be deemed to be a company within the meaning of any enactment for the time being in force providing for the levy of any tax or fee by the Central Government or a State Government and shall be liable to pay such tax or fee accordingly.

30.

(1) Dissolution of the Commission. The Central Government may, by notification in the Official Gazette, direct that the Commission shall be dissolved from such date as may be specified in the notification and thereupon the Commission shall be deemed to be dissolved accordingly.

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1. Subs. by Act 19 of 1964, s, 2, for s, 24.

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(2) On and from the said date-

(a) all assets, liabilities and obligations acquired or incurred by the Commission for purposes of the Commission or for any of the purposes referred to in this Act shall vest in the Central Government, and

(b) all members shall vacate their offices as members of the Commission.

30A. [1] Commission to comply with direction. The Commission shall be bound by such directions, including directions regarding reservation of posts for the Scheduled Castes and the Scheduled Tribes, as the Central Government may, from time to time, for reasons to be recorded in writing, give to the Commission in respect of its affairs.]

31.

(1) Power of Central Government to make rules. The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:-

(a) the term of office of, and the manner of filling casual vacancies among, the members, and their conditions of service including the salaries, remuneration and allowances to be paid to them and the travelling and daily allowances to be drawn by them when they are on tour;

(b) the disqualifications for membership of the Commission and the procedure to be followed in removing a member who is or becomes subject to any disqualification;

(c) the procedure to be followed in the discharge of functions by members;

(d) the date by which, and the form in which, the budget shall be submitted in each year under sub- section (1) of section 21

(e) the procedure to be followed for placing the Commission in possession of funds;

(f) the procedure to be followed and the conditions to be observed in borrowing moneys or in granting loans;

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1. Ins. by Act 23 of 1977, s, 5.

(g) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Commis- sion;

(gl) the amount of salary, or honorarium, or the maximum of the scale of pay of any post, the creation of which requires the previous approval of the Central Government under section 15; (g 2) the amount of capital expenditure in respect of any scheme or proposal the implementation of which would require the previous approval of the Central Government under section 15, or the original or book value of any property, right or privilege the disposal of which would require such, approval; (g 3) any bank in which the monies of the Commission may be deposited as provided in section 19;]

(h) the form and manner in which the accounts of the Commission shall be maintained under sub- section (1) of section 22;

(j) the form and manner in which returns, reports or statements shall be submitted under section 23;

(j) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [2] in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only] in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32.

(1) Power of Commission to make regulations. The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

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1. Ins. by Act 23 of 1977, s. 6. 2 Subs. by s. 6, ibid., for certain words.

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(2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:-

(a) the terms and conditions of appointment and service and the scales of pay of- employees of the Commission, including payment of travelling and daily allowances in respect of journeys undertaken by such employees for the purposes of this Act;

(b) the time and place of meetings of the Commission, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;

(c) the maintenance of minutes of meetings of the Commission and the transmission of copies thereof to the Central Government;

(d) the persons by whom, and the manner in which payments, deposits and investments may be made on behalf of the Com- mission;

(e) the custody of monies required for the current expenditure of the Commission and the investment of monies not so required;

(f) the maintenance of accounts.

(2A) The power to make regulations conferred by this section with respect to terms and conditions of appointment and service and the scales of pay of employees of the Commission shall include power to give retrospective effect from a date not earlier than the commencement of the Act, to such regulations or any of them but no retrospective effect shall be given to any such regulation so as to prejudicially affect the interests of any person to whom such regulations may be applicable.]

(3) The Central Government may, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved; and thereupon the regulation shall have effect accordingly but without prejudice to the exercise of the powers of the Commission under sub- section (1).

(4) [1] Every regulation made under this section and every notifications issued under sub- section (3) of this section shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it

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1. Ins. by Act 17 of 1981, s. 4.

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is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or notification or both Houses agree that the regulation or notification should not be made or issued, the regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation or by virtue of that notification.]