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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 10th March, 2016 by Balvanthsinh Rajput, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly rules for general information.

THE GUJARAT ENTERPRISES SINGLE WINDOW ENABLING AND CLEARANCE BILL, 2016

A Bill

to provide for accelerated and time-bound grant of various licences, permissions and approvals and to enable an alternative single window clearance mechanism to be triggered in case of failure of competent authorities to act in time, to support an investor friendly environment in the State of Gujarat and for matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-seventh Year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Enterprises Single Window Enabling and Clearance Act, 2016.
- (2) It extends to the whole of the State of Gujarat.
- (3) It Shall come into force at once.

Short title, extent
and commencement

Definitions

2. In this Act, unless the context otherwise requires,-
- (a) "Bureau of Investment Promotion" means the Industrial extension Bureau (iNDEXTb) as declared under section 4;
 - (b) "Competent Authority" means any department or agency of the Government, Local Authority, Statutory Body, State owned Corporation, Gram Panchayat, Municipality, or any other authority or Agency constituted or established under any state law or under administrative control of the Government, which is entrusted with the powers and responsibilities to grant or issue permissions for setting up or commencement of operations of an enterprise in the State;
 - (c) "District Empowered Committee" means the District Empowered Committee constituted under section 3;
 - (d) "enterprise" means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, or engaged in providing or rendering of any service or services;
 - (e) "Government" means the State Government of Gujarat;
 - (f) "investor" means any person who invests capital in any new enterprise or in an existing enterprise for expanding, modernizing or diversifying for securing income or profit or common social good;
 - (g) "Nodal Agency" means the Nodal Agencies referred to in section 5;
 - (h) "notification" means a notification published in the Gujarat Gazette and the word 'notified' shall be construed accordingly;
 - (i) "permission" means grant or issue of permission, no-objection certificate, clearance, allotment, consent, approval, registration, enrolment, licence and the like, by any Competent Authority in connection with the setting up of an enterprise in the State of GUJARAT and shall include all such permissions as are required under any state law until the enterprise commences its operation;
 - (j) "prescribed" means prescribed by the rules made under this Act;
 - (k) "State" means the State of Gujarat; and
 - (l) "State Empowered Committee" means the State Empowered Committee constituted under section 3.

3. (1) The Government may, by notification, constitute a State Empowered Committee to assist Council of Ministers in considering the proposals for benefits as mentioned in section 11 for the purpose of promoting investment and for setting up of enterprises in the State and to consider and dispose of applications for permission required under state laws in case the Competent Authority has failed to consider and dispose of such applications within the time limit prescribed under section 12.

(2) The State Empowered Committee shall examine the applications for giving concessions or grant exemption or relaxation from the provisions of any state law, take into consideration the comments of the departments, if any, hold discussions with the investors, wherever necessary and make recommendations to the Council of Ministers. The time limit for submitting recommendations to the Council of Ministers shall be such as may be prescribed under section 12.

(3) The Government may, by notification, constitute a District Empowered Committee for each district to consider and dispose of applications for permission required under state

section 12.

(4) Notwithstanding anything contained in any state law, the State Empowered Committee or, as the case may be, the District Empowered Committee shall, in case the Competent Authority has failed to process and dispose of such applications within the time limit prescribed under section 12, have the power to consider and dispose of applications for permission under any state law. For this purpose, references to the Competent Authority in such law shall be construed as including reference to the State Empowered Committee or, as the case may be, the District Empowered Committee:

Provided that where the Committee is unable to meet or otherwise unable to consider the application immediately, the Chairperson of the concerned Committee may, for reasons to be recorded in writing, decide the application and report the action taken to the Committee in its next meeting and the decision of the Chairperson, subject to any decision of the committee, on such application shall for all purposes be deemed to be the decision of concerned Committee under this section.

Constitution, powers and functions of State Empowered Committee and District Empowered Committee.

(5) The State Empowered Committee and the District Empowered Committee may be assigned such other functions as may be prescribed.

(6) Where permission is issued by State Empowered Committee or any of the District Empowered Committees under sub-section (4), State Empowered Committee or District Empowered Committee, as the case may be, may recommend to the Government for appropriate action against the concerned Competent Authority, which has failed to dispose of the application within the time limit prescribed under section 12.

**Declaration of
Bureau of
Investment
Promotion**

4. The Industrial Extension Bureau shall be the Bureau of Investment Promotion for the purposes of this Act.

Nodal Agency

5. (1) The Bureau of Investment Promotion shall be the Nodal Agency for the State Empowered Committee.

(2) The District Industries Centre shall be the Nodal Agency for the District Empowered Committee.

**Powers and
functions of
Nodal Agency**

6. Subject to the superintendence, direction and control of the Government and the State Empowered Committee or the District Empowered Committee, as the case may be, the powers and functions of the Nodal Agency shall be as follows:-

- (i) to assist the investors in completing the application forms, to acknowledge completed applications and forward such application to the concerned Competent Authorities for processing and disposal within the time limit prescribed under section 12;
- (ii) to monitor the status of applications and place the report of the status of applications before the State Empowered Committee or the District Empowered Committee, as the case may be;
- (iii) to place the application of the investor before the State Empowered Committee or the District Empowered Committee, as the case may be, for its decision, where the concerned Competent Authority has failed to consider and dispose of the application within the time limit prescribed under section 12;
- (iv) to receive applications for relaxations, exemptions and concessions as mentioned in section 11 from the investor;

- (v) to seek comments of the concerned departments or authorities on the application received from the investor for relaxations, exemptions and concessions as mentioned in section 11;
- (vi) to submit the comments of the concerned department or authority, if any, to the State Empowered Committee within the time limit prescribed under section 12;
- (vii) to submit the application received from the investor for relaxations, exemptions and concessions as mentioned in section 11, to the State Empowered Committee within the time limit prescribed under section 12, in case no comments are received from the concerned department or authorities in the prescribed time limit;

7. (1) The Competent Authority shall consider and dispose of the application forwarded to it by the Nodal Agency under clause (i) of section 6 within the time limit prescribed under section 12.

**Obligations of
concerned
department or
authority**

(2) The concerned department or authority shall provide comments sought by the Nodal Agency under clause (v) of section 6, within the prescribed time limit, and, if the concerned department or authority fails to provide comments within the

the requisite relaxations, exemptions and concessions as mentioned in section 11.

8. (1) The Government shall be competent to prescribe an application form, either in physical or electronic format, which may consist of-

**Application
form**

- (a) forms under Central laws ; and
- (b) existing forms or new forms in lieu of existing forms or modified forms under state laws.

(2) All departments or authorities concerned shall accept such application form for processing and issue of required permission.

(3) Every investor shall furnish a 'Self Certification', in the prescribed form, at the time of submitting application form to the Nodal Agency, certifying that he shall comply with the applicable provisions of the relevant laws. The Self Certification furnished by the investor shall be accepted by the Competent Authority for the purpose of issuing and granting permission.

Filing of application

9. (1) All applications for permissions shall be submitted in the prescribed manner to the Nodal Agency mentioned in sub-sections (1) and (2) of section 5.

(2) For the purpose of availing customized packages, concessions, exemptions or relaxations as provided in section 11, the application shall be submitted to the Nodal Agency mentioned in sub-section (1) of section 5.

(3) The application under sub-section (1) and (2) shall be in such form and be accompanied with such fees as may be prescribed.

Power of Competent Authority to call for additional information.-

10. (1) On receipt of an application for permissions, the Competent Authority shall have powers to obtain additional information, if required, from the applicant:

Provided that the additional information under this section shall be requisitioned only once and requisition letter shall be sent through the Nodal Agency.

(2) The applicant shall furnish the required information to the concerned Nodal Agency.

(3) The Competent Authority shall, after sanctioning or rejecting, with reasons, the application, send its orders to the concerned investor and endorse a copy thereof to the concerned Nodal Agency.

Grant of customized packages, concessions, exemptions or relaxations

11. The Government may, with a view to facilitate investment in the State, grant customized packages, concessions, exemptions or relaxations to any enterprise or category of enterprises in the State, subject to such conditions as it may deem fit, where the Government, or any other authority subordinate to it, is empowered under any state Law to grant such customized packages, concessions, exemptions or relaxations.

Time limits for processing of applications

12. (1) Notwithstanding anything contained in any state law, policy or orders for the time being in force, the Government may prescribe time limit for processing and disposal of applications by the Competent Authority.

(2) The Government may prescribe time limit for Nodal Agency to process the application and the comments from the Competent Authority, concerned department or authority, and submissions of the same to the State Empowered Committee and District Empowered Committee, as the case may be.

(3) The Government may prescribe time limit for the State Empowered Committee for submitting its recommendations to the Council of Ministers.

13. Any investor aggrieved by the orders of -**Appeal**

- (i) the Competent Authority may appeal to the State Empowered Committee;
- (ii) the District Empowered Committee may appeal to the State Empowered Committee;
- (iii) the State Empowered Committee may appeal to the Government,-

within thirty days from the date of the receipt by the investor of the order appealed against.

14. (1) Notwithstanding anything contained in any state law, the Government may, either *suomotu* or on an application made to it in this behalf, call for the record of any proceeding before any Competent Authority or the State Empowered Committee or a District Empowered Committee and examine the propriety of the proceedings or orders passed therein so as to ensure that the orders are not against public policy nor against the provisions of law and make therein such orders as it

Revision

~~within three months in cases of grant of permissions.~~

(2) The orders passed by the Government under this section shall be final and shall be binding on all concerned.

15. The class of investment for which or investment limits up to which the State Empowered Committee or a District Empowered Committee shall have jurisdiction to consider and dispose of applications for permission under section 3 shall be such as may be prescribed.

Jurisdiction of the State Empowered Committee and the District Empowered Committee

16. No suit, prosecution or legal proceedings shall lie against the Chairperson or other members of State Empowered Committee or District Empowered Committee or any employee of the Government acting under the direction of such committee in respect of anything which, in good faith, is done or intended to be done under this Act or any rules made thereunder.

Protection of action taken in good faith

Confidentiality

17. No agency or authority of the Government or, any local authority, including any functionaries thereunder, shall disclose to any other investor or to a person not duly authorized, any information forming the intellectual property of the investor without the consent of such investor:

Provided that all information in respect of the terms and conditions of the investment made in the State and the facilities, if any, provided to the investor by the Government or any of its agencies or authorities, or by any local authority, shall be notified by the Government for information of the public.

Transitional provisions

18. The provisions of this Act shall apply to all investment proposals that have been under consideration of the Government or any of its agencies, authorities or undertakings on the date of commencement of this Act, if the concerned investor so opts by submitting an application to the Nodal Agency in the prescribed form and manner.

Act to override other laws

19. Save as otherwise provided in this Act, the provisions of this Act shall have overriding effect, notwithstanding anything in consistent there with contained in any other state law, for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law.

Power to remove difficulty

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

Provided that no order under this section shall be made after the expiry of a period of two years from the commencement of this Act.

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

Power to make rules

21. (1) The Government may, by notification, make rules generally for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than thirty days, which may be comprised in one session or in two successive sessions and, if before the expiry of the session in

which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

STATEMENT OF OBJECTS AND REASONS

Single Window Scheme was in operation in State since 2015

It had become imperative to provide for accelerated and time-bound grant of various licences, permissions and approvals and to enable an alternative single window clearance mechanism to be triggered in case of failure of competent authorities to act in time, to support an investor friendly environment in the State of Gujarat and it was expedient to create an environment for accelerated implementation of investment projects in the State by providing a single window enabling and clearance mechanism.

Hence the Bill.

Gandhinagar.

Dated the 3rd February, 2016.

Balvantsinh Rajput

M.L.A.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

The following Clauses of the Bill, if enacted shall empower the State Government to make rules with regard to the matters mentioned against such clauses, namely:-

- | Clause | with respect to |
|---------------|---|
| 3(5) | prescribing other functions to be assigned to the State Empowered Committee and the District Empowered Committee; |
| 7(2) | prescribing period within which the concerned departments or authorities shall provide comments sought by the Nodal Agency under clause (v) of section 6; |
| 8 | prescribing an application form either in physical or electronic format in which the investor will submit his application to the concerned Nodal Agency and prescribing a form for 'Self Certification', to be submitted by the investor alongwith application form to the Nodal Agency; |
| | <hr/> <p style="text-align: center;">PERMISSIONS SHALL BE SUBMITTED BY THE NODAL AGENCY AND THE TCSA</p> <p>which is to be accompanied with the application form;</p> |
| 12 | prescribing time limit for processing and disposal of applications by the Competent Authority, for Nodal Agency to process the application, seeking comments from Competent Authority, concerned departments or authority and submissions of the same to the State Empowered Committee and District Empowered Committee, as the case may be and for the State Empowered Committee for submitting its recommendations to the Council of Ministers; |
| 15 | prescribing the class of investment for which or investment limits up to which the State Empowered Committee or a District Empowered Committee shall have jurisdiction to consider and dispose of applications for permission; |

- 18 prescribing the manner and form in which an investor may file option under that section by submitting an application to the Nodal Agency ; and
- 21 empowering Government to make rules generally for carrying out the purposes of this Act, by Notification.

The proposed delegation is of normal character and mainly relates to the matters of detail.

Gandhinagar.

Dated the 3rd February, 2016.

Balvantsinh Rajput

M.L.A.

Gandhinagar.

Dated the 10th March, 2016.

D. M. PATEL,

Secretary,

Gujarat Legislative Assembly.