



The Nagaland Forest Products Limited (Acquisition of Shares) Act, 1982

Act 5 of 1982

Keyword(s):

Company, Shareholder, Specified Date, Public Interest

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**THE NAGALAND FOREST PRODUCTS LIMITED
(ACQUISITION OF SHARES) ACT, 1982**

(NAGALAND ACT NO. 5 OF 1982)

(Received the assent of the President of India on 25th April, 1982)

(Published in the Nagaland Gazette Extraordinary dated
19th May, 1982)

An

Act

to provide for the acquisition of certain shares of the Nagaland Forest Products Limited in the public interest with a view to securing the proper management of the affairs of the Company and development of the production of goods which are vital to the needs of the State of Nagaland and for matters connected therewith or incidental thereto.

WHEREAS Messrs Nagaland Forest Products Limited are engaged in the manufacture and production of Plywood, black boards, particle boards, chip boards, decorative boards, paper boards, compressed wood, laminates, flush doors, furniture which are vital to the needs of the general public;

AND WHEREAS the State Government have also invested considerable funds in the share capital of the Company.

AND WHEREAS such acquisition is for giving effect to the policy of the State towards securing the principle specified in clause (b) of article 39 of Constitution as the ownership and control of the material resources of the community, would by reason of such acquisition become vested in the State and thereby so distributed as best to serve the common good;

AND WHEREAS it is expedient in the public interest that shares of the Nagaland Forest Products Limited should be acquired other than those held by the State Government or its nominees;

AND WHEREAS further investment of large sums of money is necessary for the maintenance and development of the production of the undertakings of the Company and incidentally for securing the proper management of the affairs of the Company;

AND WHEREAS it is also necessary in the public interest to take over immediately management and effective control of the affairs of the Company as incidental to such acquisition to achieve the objectives aforementioned;

AND WHEREAS instructions from the President of India have been obtained to introduce the Bill in the Nagaland Legislative Assembly.

It is hereby enacted in the thirty three year of the Republic of India as follows :

Chapter I

PRELIMINARY

Short Title and Commencement

1. (1) This Act, may be called the Nagaland Forest Products Limited (Acquisition of Shares) Act. 1982.
- (2) It shall be deemed to have come into force on the 17th day of December, 1981.

Definitions

2. In this Act unless the context otherwise requires ;
 - (a) "appointed day" means the 17th day of December, 1981 being the day on which the Nagaland Forest Products Limited (Acquisition of Shares) Ordinance, 1981 came into force.
 - (b) "Commissioner" means the Commissioner of Payments appointed under section 6.

1 of 1956

- (c) "Company" means Nagaland Forest Products Limited, being a Company within the meaning of the Companies Act. 1956 and having its registered office at Tiji in the State of Nagaland. .
- (d) "notification" means a notification published in the official Gazette ;

1 of 1956

- (e) "shareholder" means-i a person who immediately before the appointed day was registered by the Company as the holder of any share and includes his legal representatives, or (ii) a person who, before the appointed

day had lodged with the Company a proper instrument of transfer of any share in the form prescribed under section 108 of the Companies Act, 1956, and executed in accordance with the provisions of that section, of (ii) a person who, claims under a proper instrument of transfer of any share in the form prescribed under section 108 of the Companies Act 1957, and delivers such instruments to the Commissioner, duly executed, on or before such date as the State Government may, by notification, specify in this behalf.

1 of 1956

- (f) "specified date" means such date as the State Government may, for the purpose of any provision of this Act, by notification, specify and different dates may be specified for different provisions of this Act.

1 of 1956

- (g) words and expressions used herein and not defined but defined in the Companies Act, 1956 have the meanings respectively assigned to them in that Act.

Chapter II

ACQUISITION OF SHARES OF THE COMPANY

Transfer and Vesting of shares of the Company in the State Government

3. (1) On the appointed day, all shares of the Company other than the shares already held by the Government or its nominees in the Company shall, by virtue of this Act, stand transferred to, and vested in the State Government.
- (2) The State Government shall be deemed on and from the appointed day, to have been registered in the Register of members of the Company as the holder of each share which stands transferred to, and vested in it by virtue of the provisions of sub-section (1).
- (3) All the shares which have vested in the State Government under sub-section (1), shall by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment injunction or any decree or order of the court, tribunal or other authority

restricting the use of such shares in any manner, shall be deemed to have been withdrawn

- (4) For the removal of doubts, it is hereby declared that the provision of sub-sections (1) and (2) shall not be deemed to affect :
- (a) any right of the Company subsisting immediately before the appointed day, against any shareholder to recover from such shareholder any sum of money on the ground that the shareholder has not paid or credited to the Company the whole or any part of the value of the shares held by him, or any other ground whatsoever, or
 - (b) any right of the shareholder subsisting, immediately before the appointed day against this Company to receive any dividend or other payment due from the Company.

Interim Management

4. (1) On the appointed day or immediately thereafter, the State Government or any officer or officers authorised in that behalf by the Government shall be entitled to take over all assets, books of accounts, registers and also documents relating to the Company from the persons in charge of management of the Company immediately before the vesting the shares and all such person should be bound to deliver the same to the State Government or the officer or officers authorised in that behalf and said officer or officers, for that purpose, shall be entitled to take help and assistance of other officers of the State Government as may be considered necessary.
- (2) The State Government, or the officer or officers authorised under sub-section (1), subject to the control and direction of the State Government, shall be entitled to run the affairs of the Company by taking all necessary steps in that behalf until all necessary steps are taken under the provisions of the companies Act, 1956 relating to the Company.
- (3) Any officer or officers authorised by the State Government under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

- (4) The State Government may from time to time issue such directions by general or special order as may be considered necessary to exercise effectively the powers under sub-sections (1) and (2) above, including opening of account with Banks in the name of the Company, operation thereof any giving of all necessary directions and respect of the existing accounts in the name of the Company with Banks and other Financial Institutions including operation thereof.

Payment of Amount

5. (1) For the transfer to, and vesting in, the State Government, under section 3 of the shares of the Company, there shall be given by the State Government to the shareholders of the Company in cash, the amount calculated as the value of such shares in accordance with the principles laid down in the Wealth Tax Act, 1957 (Act. 27 of 1957) and the Rules framed thereunder for determining the value of unquoted shares as in force on the appointed day and in the manner specified in section 7.
- (2) The amount, referred to in sub-section (1), shall carry simple interest at the rate of four percent per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the State Government to the Commissioner.

Appointment of Commissioner of Payments

6. (1) The State Government shall, for the purpose of disbursing the amounts payable to shareholders of the Company under section 5, by notification, appoint a Commissioner of payments.
- (2) The State Government may appoint such other persons as it may think fit to assist the Commissioner and there upon the Commissioner may, authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act., and different persons may be authorised to exercise different powers.
- (3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same manner and with the same effect as if they have

been conferred on that person directly by this Act, and not by way of authorisation.

Payment by the State Government to the Commissioner

7. (1) The State Government shall, within 30 days from the specified date, pay in cash to the Commissioner for payment to the shareholders of the Company :
 - (a) an amount equal to the amount payable under sub-section (1) of section 5,
 - (b) an amount equal to the amount determined under sub-section (2) of section 5, and
- (2) A deposit account shall be opened by the State Government in favour of the Commissioner, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account shall be operated by the Commissioner.
- (3) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the shareholders of the Company.

Claims to be made to the Commissioner

8. (1) Every shareholder, having a claim in relation to any share acquired by this Act, shall prefer such claim before the Commissioner within thirty days from the specified date.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

- (2) Every shareholder of a preference share shall have a preferential claim with regard to the amount paid by the State Government to the Commissioner.

Examination of Claims

9. On receipt of the claims made under section 8, the Commissioner shall examine the claims in relation to each share.
10. (1) After examining the claims, the Commissioner shall fix a certain date or before which every claimant shall file the proof of his claim or be excluded from the benefit of disbursements made by the Commissioner.

- (2) Not less than fourteen days notice of the date so fixed shall be given by advertisement in one issue of the newspaper in the English language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.
- (3) Every claimant, who fails to file the proof of his claim within the time specified by the Commissioner, shall be excluded from the disbursements made by the Commissioner.
- (4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.
- (5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the code of Civil Procedure, 1908, while trying a suit in respect of the following matter, namely :--
 - (a) the summoning and enforcing the attendance of any witness and examining him on oath;
 - (b) the discovery and production of any document or other material object producible as evidence;
 - (c) the reception of evidence on affidavits;
 - (d) the issuing of any commission for the examination of witnesses.

45 of 1860 2 of 1974

- (6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 345 and Chapter XXVI of the code of Criminal Procedure 1973.

- (7) A claimant, who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the Company is situated.

Disbursement of money by the Commissioner to claimants

11. (1) After admitting a claim under this Act, the amount due in respect of each share acquired by virtue of this Act, shall be paid by the Commissioner to the person or persons to whom such sums are due, and such payment, the liability of the State Government in respect of the share so acquired, shall stand discharged.
- (2) The Commissioner shall also apportion amongst the shareholders, the amount paid to him by way of interest under sub-section (3) of section 7, and such apportionment shall be made on the basis of the amount due to each shareholder.

Undisbursed or unclaimed amount to be deposited to general revenue account

12. Any money paid to the Commissioner which remain undisbursed or unclaimed on the date immediately preceeding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner before his office is finally wound up to the general revenue account of the State Government, but a claim to any money so transferred, may be preferred to the State Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

Power of inspection

13. For the purposes of ascertaining whether any person claiming payment under this Act is a shareholder, the Commissioner shall have the right to :
- (a) require any person having the possession, to custody or control of any register or record of the Company, to produce such register or record before the Commissioner,
- (b) require any person to make any statement or furnish any information which may be required by the Commissioner.

Power of Commissioner to enquire into disputes as to amount

14. Where there is any dispute as to the person or persons who are entitled to any amount payable under this Act. (including any dispute as to who are the legal representatives of any deceased claimant to the amount), the Commissioner may, after making such enquiry as he may deem fit, make the payment to such person as appears to him to be best entitled to receive the amount:

Provided that if the Commissioner is unable to determine as to who is the person entitled to the amount and considers that the matters could more appropriately be dealt with by the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated, he may refer such dispute to the said-court, whose decision thereon shall be final;

Provided further that nothing contained herein shall effect the liability of any person, who may receive the whole or any part of the amount allowed under this Act to pay the same to the person lawfully entitled thereto.

Deposit of amount in court

15. Where any dispute has been referred under section 14 by the Commissioner to the civil court referred to therein he shall deposit the amount in that court.

Chapter III

MISCELLANEOUS

Act, have over riding effect

16. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law, other than this Act, or in any instrument having effect by virtue of any law, other than this Act

Penalties

17. If any person :
- (a) makes any claim for any payment under this Act knowing or having reason to believe that such claim is false or without any basis;
 - (b) when required under this Act so to do :

- (i) omits or fails to produce any register or record of the Company; or
 - (ii) makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or
- (c) makes any such statement as aforesaid in any book, account, record, register, return or other documents, he shall be punishable with imprisonment for a term, which may extend to two years, or with fine which may extend to two thousand rupees or with both.

Offences by Companies

18. (i) Where an offence under this Act has been committed by a Company, every person who, at the time the offence was committed, was in charge of, and was responsible to, Company for the conduct of the business of the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (ii) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer, such Director Manager, Secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Contracts to continue unless terminated by State Government

19. (i) Every contract, entered into for any service, sale or supply in India and in force immediately before the appointed day shall, unless terminated under sub-section (2), within a period of five years from the appointed day, continue to be of full force and effect against or in favour of the State Government or as the case may be, the successor Government Company.

- (ii) The State Government may, if it is satisfied that any contract referred to in sub-section (1) is unduly onerous or has been entered into a bad faith or is determined to the interests of the Government or the successor Government Company; as the case may be by order in writing, either terminate such contract or make such alterations or modifications therein, as it may think fit.

Provided that the State Government shall not terminate any contract or make any alteration or modification therein except after giving to the parties to the contract, a reasonable opportunity of being heard and except after recording in writing, its reasons for such termination, alteration or modification, as the case may be.

Duty to deliver possession of property of Company and documents relating to Company

20. Any person who has in his possession, custody or under his control any property of or any books, documents or other papers relating to the property and assets of the Company, including any letters, memorenda, notes or other communications between him and the Company, shall be liable to account for the said property, books, documents and other papers (including such letters, memoranda, notes or other communications) to the Company and shall deliver them up to the Company or to such other person as may be authorised for the purpose by the Company.

Powers of inspection

21. (i) For the purpose of ascertaining whether any property is the property of the Company or for any purpose mentioned in this Act or the rules made thereunder, any person of the rank of Under Secretary and above and authorised by the State Government in this behalf shall have the right to :
- (a) enter and inspect any premises.
 - (b) require any person having the possession, custody or control of any register or record of the Company to produce such register or record,
 - (c) record the occupier of any property belonging to or claimed to be the property of the Company, to submit to the person so authorised such accounts,

books or other documents or to furnish to him such information as he may reasonably think necessary; and

- (d) examine any person having control of, or employed in connection with the Company and require him to make any Statement touching the affairs of the Company.

45 of 1860

- (ii) Any person authorised by the State Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Power to remove difficulties

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order as occasion requires, do anything (not inconsistent with the provisions of the Act) which appears to it to be necessary for the purpose of removing the difficulty :

Provided that no such order shall be issued after the expiration of two years from the appointed day.

Protection of action taken in good faith

23. No suit, prosecution or other legal proceeding shall lie against the State Government or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

Limitation of cognizance of offences

24. No court shall take cognizance of any offence punishable under this Act, except with the previous sanction of the State Government in this behalf.

Power to make rules

25. (i) The State Government may, by notification, make rules to carry out provisions of the Act.
- (ii) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one sessions, and if before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly

make any modification in the rule or decide that the rule should not be issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings

26. (i) The Nagaland Forest Products Limited (Acquisition of Share) Ordinance, 1981 is hereby repealed.
- (ii) Notwithstanding such repeal anything done or any action taken including any order made, notifications issued or directions given under the Ordinance so repealed shall be deemed to have been done, taken, made, issued or given as the case may be under the corresponding provisions of this Act.