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EXTRAORDINARY

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GOVERNMENT OF ARUNACHAL PRADESH
LAW, LEGISLATIVE AND JUSTICE DEPARTMENT
ARUNACHAL PRADESH CIVIL SECRETARIAT
ITANAGAR

NOTIFICATION

The 9th April, 2018

No. Law/Legn-12/2015.—The following Act of the Arunachal Pradesh Legislative Assembly which was passed in the Thirteenth Session of the Sixth Legislative Assembly and received the assent of the Governor of Arunachal Pradesh is hereby published for general information.

(Received the assent of the Governor on 01.05.2018)

THE ARUNACHAL PRADESH STATE ROAD (REGULATION AND DEVELOPMENT) ACT, 2015

(ACT NO. 7 OF 2018)

An

Act

to consolidate laws relating to Scientific planning and development of road network and connectivity, systematic regulation of road development by giving impetus to safe custody and maintenance of assets in the State for all round economic development and welfare of the people and matters connected therewith and incidental thereto;

CHAPTER - I

PRELIMINARY

1. **Short title, extent and commencement :** (1) This Act may be called Arunachal Pradesh State Road (Regulation and Development) Act, 2015.
(2). It shall extend to the whole of the State of Arunachal Pradesh.
(3). It shall come into force on its date of publication in the Official Gazette.
2. **Definitions :** In this Act, unless the context otherwise requires : -
 - (1) **'Building'** includes any erection of whatever material and in whatever manner constructed (including a farm building or house for agriculture horticulture purpose and animal sheds) and also includes plinths, door steps, walls (including compound wall and fences) advertisement board and alike ;
 - (2) **'Building line'** means a line on either side of any state road or part of a state road as may be determined in respect of such state road or part by the state road authority under section 13.
 - (3) **'Collector'** means such officer as so appointed collector to perform Section 29 only of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" (and includes any other authority so appointed by the Government by notification in the Official Gazette, to perform all or any of the functions of the collector under this Act);
 - (4) **'Competent authority'** means the Government of Arunachal Pradesh, or a local authority, or any officer of the State Government or the local authority appointed to be the competent authority for the purposes of this Act ;

- (5) **'Control line'** means a line on either side of a state road or part of a state road beyond the building line as may be determined by the state road authority under section 13.
- (6) **'Driver'** means in the case of a vehicle the person in charge or control of the vehicle for the time being, and in the case of animals any person driving, loading, riding or otherwise managing or controlling the animal and the words drive, driving, driven shall be construed accordingly ;
- (7) **'Encroachment'** means occupation of any state road or part thereof, for the purposes other than traffic and act which causes damage to the state road or any part, thereof, and includes ;
 - (a) Erection of a building or any other permanent or temporary structure, balconies, porches, facades or projections on, over or overhanging the state road land ;
 - (b) Occupation of State road land beyond the prescribed period, if any, for stacking building materials or goods of any other description, dumping of earth, trees, bamboos or any material as to reduce the road width, for exhibiting article for sale, for erecting poles, tents, pandals, awnings, arches, platforms, rostrums, hoardings, display boards, statues, monuments of all kinds, steps, ramps and other similar erections or for parking vehicle or stabling domestic animals and poultry and cultivation of any kind including horticulture or for any other purposes ;
 - (c) Excavation or embankment of any sort made or extended on any state road land; and dumping of waste and filthy material which may cause hygienic and environmental hazards, letting of waste and polluted water or other effluents into the state road and using the state road for bathing, washing, watering and defecation ;
- (8) **'State road'** means any road, way or land declared as a State road under section 3 and includes any lands acquired or demarcated for construction of a State road, but does not include any national highway as defined or declared as such under the National Highways Act, 1956 (Central Act 48 of 1956) ;
- (9) **'State road authority'** means the State road authority of Arunachal Pradesh appointed under, Section 4 responsible for construction, maintenance, development and repair of road and bridges and any other authority appointed for the purpose by State Government on its behalf.
- (10) **'State road boundaries'** means the boundaries of the State road whether visibly demarcated or not, within which the areas of land constituting the State road or land reserved or acquired for widening the State road is contained ;
- (11) **'Limited access State road'** means a State road access to which is permitted only at points specifically provided or agreed to for the purpose by the State road authority ;
- (12) **'Middle of a State road'** means in relation to any State road for which plans have been prepared for improvement by the State road authority, the middle of the state road as proposed to be improved in accordance with the plans and where no such plans have been prepared, the point half way between the boundaries of the state road ;
- (13) **'Official Gazette'** means the Arunachal Pradesh Gazette ;
- (14) **'Place of worship'** means a building used as a place of religious congregation, prayer or worship established and recognized, and shall include a church, temple or mosque or any other Arunachal Pradesh indigenous site by whatever name called.
- (15) **'Prescribed'** means prescribed by rules made under this Act ;
- (16) **'Public place'** means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or dropped by a public vehicle ;
- (17) **'Standard width of State road'** means the width of a State road between its boundaries as prescribed by the State road authority under section 13.
- (18) **'State Government' or 'Government'** means the Government of Arunachal Pradesh ;
- (19) **'Survey'** includes all operations incidental to the determination, measurement and record of a boundary or boundaries or any part of a boundary and includes a re-survey ;
- (20) **'Survey mark'** means any mark or object erection made, employed or specified by a survey officer to indicate or determine or assist in determining the position or level of any point or points ;

- (21) **'Survey officer'** means any person appointed to be a survey officer under this Act ;
- (22) **'Vehicle'** includes a barrow, sledge, plough, drag and a wheeled or tracked conveyance of any description capable of being used on a state road.
- (23) **'Ribbon development'** means Development/Construction of Agriculture, Horticulture, Industrial, Residential and Commercial infrastructure along the right of way of the State Road.

CHAPTER - II

DECLARATION OF STATE ROAD & STATE ROAD AUTHORITY, ITS POWERS AND FUNCTIONS

3. Declaration of State road : The State Government may, by notification in the Official Gazette, declare any road, way or land appurtenant thereto to be a State road and classify it as :

- (a) State Highway (SH),
- (b) Major District Road (MDR),
- (c) Other District Road (ODR),
- (d) Rural Roads (RR)
- (e) Village Road (VR).

(Classification) Explanation : For the purpose of classification of State road under this section, the following guidelines shall be adopted ;

State Highway : Main trunk or arterial roads of a State connecting up with the National Highways or State Highways of adjacent States or Arterial roads linking the district headquarters and important cities of the State and ring road of cities and towns.

Major District Road : Roads traversing each district serving the areas of production and markets, connecting the district with each other, or with National Highway, or important navigational route with high order of traffic and ring road of cities and towns.

Other District Road : Roads traversing each district serving the areas of production and markets connecting the district with each other or with National Highway or important navigational route with low order of traffic.

Rural Roads : Road connecting villages or cluster of villages with for Commercial, Agricultural activities.

Village Road : Road connecting the various road within a village or cluster of villages for commercial and agricultural activities.

4. Appointment of State Road Authority : The State Government may, by notification in the Official Gazette and subject to such conditions and limitations as authority may specify therein, appoint Commissioner / Secretary, PWD either by name or by virtue of his office, to be the State Road authority of State Road category namely (1) State Highway (2) Major District Road and (3) Other District Road in the State and Commissioner/Secretary, RWD as State Road authority of the State road Category namely (1) Rural Road and (2) Village Roads in the State with full range of Powers and Responsibilities under this Act, together with powers to be delegated selectively to appropriate Chief Engineers, PWD and Chief Engineers, RWD respectively.

5. Power and functions of State Road Authority :

Subject to the provisions of this Act, State road authority shall have the following powers and functions :

- (a) to execute road development schemes;
- (b) to control ribbon development;
- (c) to prevent and remove encroachment;
- (d) to exercise such powers and functions as necessary and incidental to any or all of the above matters, and
- (e) to exercise such other powers and functions as may be prescribed.

CHAPTER - III

DEVELOPMENT AND MAINTENANCE OF STATE ROAD

6. Powers to enter for survey in connection with a State Road scheme : (1) The State Road Authority or any officer not below the rank of Junior Engineer of the Public Works Department/Rural Works Department or local board or group of persons authorized by the State road authority on its behalf may undertake a survey in connection with a State road scheme and may, for this purpose;

- (a) enter upon any land along with his workmen and surveyors and take measurements and levels on it ;
- (b) mark such levels, dig or bore into the sub-soil and do all other acts necessary to ascertain whether the land is suitable or not ;
- (c) set-out the boundaries of the proposed State road by placing marks and cutting trenches ; and
- (d) cut down and clear any part of a standing crop, fence or jungle in cases where survey cannot be completed, levels, taken or boundaries marked otherwise ;

Provided that no person shall enter into any building or any enclosed court or garden attached to a dwelling house without prior consent of occupier.

7. Preparation of Schemes for State Road Development : (1) The State Road Authority may, on its own accord or if expressly requested by the competent authority, shall, subject to the other provisions of this Act and such rules as may be framed by the State Government for this purpose, prepare and submit to the competent authority for, sanction, a detailed scheme for the construction of a new State road or re-alignment or improvement of, or repairs to, an existing one or part thereof.

(2) Such a scheme may provide for :-

- (a) acquisition of any land and/or property which in the opinion of the State road authority, is considered necessary for its execution ;
- (b) laying out or relaying out of all or any of the lands so acquired ;
- (c) diversion or closure of any existing State road or a part of such State road ;
- (d) construction or reconstruction of the roadway including its widening, levelling, bridging, surfacing, sewerage, draining, water supply and street-lighting arrangements and planting of roadside trees ;
- (e) Preparation of a full Resettlement and Indigenous People Development Plan and Mitigate measures for Environmental Impacts ;
- (f) laying out of foot-paths, cycle tracks and special traffic lanes for any kind or class of vehicles, designing and setting of parking bays and service stations, location of advertisement posts and bill boards, and underground ducts for accommodating telecommunication cables, electric lines ;
- (g) the lay-out of access roads at suitable distances connecting the highway or the proposed State road with the adjoining properties.

8. Power to do certain acts for execution of State road Scheme : When the competent authority has sanctioned the State road schemes prepared in pursuance of section 7 and provided the necessary fund for its execution, the State road authority shall proceed to carry out the work and may, for this purpose -

- (a) enter into and perform all such contracts on behalf of the competent authority as may be considered necessary ;
- (b) make arrangements for the acquisition of the land required under the scheme by outright gift or purchase by agreement with the owner or owners, or failing such agreement, will transfer to State Government for decision on acquisition process.
- (c) turn, divert or close either temporarily or permanently any existing State road or portion thereof ; and
- (d) regulate subject to such rules as may be prescribed in this behalf, the kind, number and speed of vehicles using any State road or portion thereof by means of barrier, diversion roads or other means.

9. Maintenance of State road plans : (1) A State Road Authority shall maintain authoritative plans for the State roads under its control.

- (2) Such plans shall show clearly the boundaries of the State road, the detailed measurements of road widths, the distances between boundary marks and sufficient measurements from fixed points to enable the re-fixation in position of boundary marks in case they have been displaced or tampered with.
- (3) The State Road Authority shall have all such authoritative plans prepared after having a survey made of the State road lands and their boundaries in the manner prescribed in Chapter-VIII and in accordance with the record of that survey as notified under section 50 and modified, as may be under section 51.

10. Demarcation of State Road Boundaries : (1) The State Road Authority shall have the boundaries of the State roads in its charge demarcated with reference to the authoritative plans maintained by it, by planting boundary stones or other suitable marks of a durable nature, signage/geo-tagging at intervals all along the

State road in such a manner that the imaginary line joining such stones or marks shows road boundary correctly in a true horizontal plan without sloped or inclined measurement. Photographic/videographic images containing GPS record of prominent reference land marks of boundaries of state road shall be maintained by State Road authority.

- (2) Where there are bends or links in the road boundary, the stones or marks shall be so located as to give the correct configuration of the boundary if they are joined by straight or curve lines.
- (3) The boundary stones or marks, which may be given consecutive numbers, shall be maintained on the ground as if they constitute part of the State road.
- (4) Where standard widths have been prescribed for any State road under section 12, the distance between the State road boundaries so demarcated shall correspond to that width.

11. Annual check of State road boundaries : (1) It shall be the duty of the State Road Authority to conduct an annual check of the boundaries of the State Road, in its charge with a view to locating unauthorized encroachment, if any.

- (2) When the State Road Authority is satisfied that un- authorized encroachment has been made on State road land, it shall take immediate steps as specified in section 26 for the removal thereof.

CHAPTER - IV

RESTRICTION OF RIBBON DEVELOPMENT ALONG STATE ROADS AND CONTROL OF ACCESS TO STATE ROADS

12. Standard width of State Roads : (1) The State Road Authority may, with the prior approval of the State Government, prescribe a standard width for any State road under its charge or adopt the relevant standard prescribed for hill areas by the Indian Roads Congress specifications.

- (2) The standard width of State road may be same throughout the length or different in reach wise according to local needs.

(3) When a State Road Authority proposes to prescribe a standard width in respect of any State Road or a portion thereof, it shall issue notification and invite objections, if any, to be submitted to it within 60 days of the date of issue of such notifications.

(4) The notification shall also be published in local dialect in the locality where the State road is situated, and in addition, copies of the notification shall be served to all Gram Panchayat along the State road, for wide publicity.

(5) All objections received within the prescribed period shall be taken into account and considered on merit by the State Road Authority before finalizing its proposal for submission to the State Government.

(6) The State Government may reject or sanction the proposal with or without modification. The decision of the State Government regarding the objections or suggestions mentioned above shall be final and conclusive.

(7) When the State Government's order sanctioning the proposal with or without modification has been issued, the State Road Authority shall cause further publicity to be given to the standard width, as finally approved, in the same manner as prescribed in section 12(4), and the records so published shall thereupon be conclusive proof that the standard width so determined and recorded therein has been correctly determined and recorded.

(8) In determining the standard width, the State Road Authority and the State Government shall take into account the requirements of public health and welfare, safety and convenience for all classes of traffic, including pedestrians and cyclists likely to use the State road.

(9) The standard width so determined may, at any time, be altered but the procedure for such alterations shall be the same as prescribed for the determination of original standard width.

13. Fixation of building lines and control lines : (1) The State Road Authority may, with the prior approval of the State Government, determine and fix building lines and control lines in respect of any State road or part of a State road in its charge along one or both sides of the State road.

(2) Having regard to the situation or the requirement of a State road or the condition of the local area through which a State road passes, it shall be lawful for the State Government:

- (a) to fix a uniform width or with different in reach wise between boundary line and building line or between building line and control line.
- (3) When State road authority proposes to determine a building and a control line in respect of the State road, the same procedure shall, as far as applicable, be followed as prescribed under section 12(1) for the prescription of standard width.
- (4) The building and control lines as finally determine shall be demarcated on the ground by distinctive stones or other suitable marks which may be painted with different colours and serially numbered.
- (5) Within three months from the date of publication of the notification under sub-section (3) of section 13, above fixing the standard width or boundaries, building line and control line with respect to any State road, the State Road Authority shall make a map showing the alignment of the State road, the State road boundaries, building and control lines and any other particulars necessary for the purpose of this Act and within two months from the date of making any alternative or additions thereto, cause the said map to be corrected and such map, with the date indicated thereon of the last time it has been corrected shall be kept in the office of the State Road Authority. Such map, which shall bear the seal of the State road authority, shall be opened to inspection, and copies of such map shall also be kept for inspection at such other places as may be prescribed by the State Road Authority.

14. Restriction on land use between State road boundary and building line :

(1) Notwithstanding anything contained in any other law for the time being in force, it shall be unlawful for any person except with prior permission from the State Road Authority or any designated person working on behalf of State Road Authority :

- (a) to construct or layout any means of access to or from a State road ;
- (b) to erect or re-erect or extend any building or any kind of structure ;
- (c) to make any excavation ; or
- (d) to construct, form or layout any works, upon land between the State road boundary and the building line determined in respect of the State road under section 13 :

Provided, however, that these restrictions shall not apply to any works necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric line, pipes, ducts or any other apparatus, constructed in or upon the land before the date of commencement of restriction or, with the consent of the State Road Authority, on or after that date.

- (2) Should any building or any other structure or apparatus lie within the area between the building line and in the middle of the State road before commencement of restriction, the State Road Authority shall, whenever such structure has been either entirely or in part taken down or burnt down or has fallen down, by notice, require such structure or part, when rebuilt, to be set back to the building line.
- (3) Any temporary structure that has existed between building line and middle of the State road before issue of notification on the matter shall not be converted into permanent structure.

15. Restriction on use of land between building line and control line :

(1) Notwithstanding anything contained in any law for the time being in force, no person shall erect or re-erect any building or structure or make or extend any excavation or alter the level of land by lowering, raising, digging, or filling up, or construct, form or layout any means of access to the State road upon land lying in between the building and the control lines determined in respect of the State road, except with the prior permission of the State road authority.

- (2) Any person desiring to obtain the permission referred to in Section 15(1) shall make an application in writing to the State Road Authority in such form with and together with such non-refundable fees as may be prescribed.
- (3) On receipt of such application, the State Road Authority after making such further enquiries as it may consider necessary, shall, by order in writing, either:
 - (a) grant the permission, subject to such conditions if any, as may be specified in the order; or
 - (b) refuse to grant such permission.
- (4) The State Road Authority shall not ordinarily refuse permission for :

- (a) the erection of a building or a structure which was in existence on the date on which the restriction under Section 15 (1) came into force, unless such re-erection involves any material alteration to the outside appearance of the building of structure.

- (b) the re-erection of a building or structure or structure which was in existence on the date on which the restriction under Section 15 (1) came into force, unless such re-erection involves any material alteration to the outside appearance of the building or structure.

- (5) When the State Road Authority refuses the permission, the reason thereof shall be recorded and communicated to the applicant;

Provided that nothing contained therein shall debar a person from making a fresh application after rectifying the defect on account of which such permission was refused, and the State Road Authority shall consider the application; afresh and pass an order thereon.

- (6) In the event of not passing any order by the Authority even on the expiry of six months after an application has been made to the State road authority as required under Section 15(1) or provision to Section 15(5), permission shall be deemed to have been given without the imposition or any condition.

Provided that no such permission shall be presumed to have been granted if the application is for construction, formation or laying out of any means of access.

- (7) The State Road Authority shall maintain a register with sufficient particulars of all permissions granted or refused by it under this section and the register shall be available for inspection free of charge, by all persons interested and such persons shall be entitled to obtain extracts there from on payment of such fees as may be prescribed.

- 16. Appeal :** (1) If any applicant is aggrieved by any decision of the State Road Authority under Section 15(3) or 15(5), may, within 30 days from the date of such order, prefer an appeal to the Commissioner/Secretary, PWD/RWD, as the case may be.

- (2) The Commissioner/Secretary, PWD/RWD, may, after giving an opportunity to the appellant to be heard, may make such order as deemed fit and proper and such order in the matter shall be final.

- 17. Declaration of limited access State road :** (1) The State Road Authority may, with the approval of the State Government, declare a State road or any portion of it to be a limited access State road.

- (2) When a State Road Authority proposes to make any such declaration under Section 17(1), the same procedure, as applicable, shall be followed as prescribed under Section 12(1) to 12 (9) for the prescription of standard widths.

- (3) It shall be unlawful for any person to layout a new means of access to a limited access State road for vehicles or pedestrians except with the specific permission of the State Road Authority.

- (4) The procedure for obtaining the permission of the State Road Authority for this purpose shall be the same as prescribed in Section 15, and in the event of refusal of permission, the applicant shall have the right of making a fresh application to the authority and the right of appeal to the Commissioner/ Secretary, PWD/RWD in the same manner as prescribed in Section 16.

- (5) When any State road or part of it has been declared to be a limited access State road, the State Road Authority shall, within six months of the final publication of the declaration; prepare a plan of such State road or part showing the points of access for in accordance with Section 9(3).

- (6) A plan so prepared shall be available for inspection by the public in the office of the State Road Authority free of charge at all reasonable times, and copies of it shall be made available to any member of the public on application to the State Road Authority and on payment of such reasonable cost as may be prescribed.

- 18. Regulation or diversion of right of access to State road :** (1) The State Road Authority may, if it considers diversion is essential in the interest of safety or convenience of traffic, shall have the right to regulate or divert any existing right of access to State road in the manner specified hereinafter :

Provided that any existing right of access shall not be diverted until alternative access has been provided.

- (2) Where any existing right of access is diverted, the point at which alternative access is given to the State road shall not be unreasonably distant from the existing point of access.

- (3) The State Road Authority shall, by notification in the Official Gazette publish date on which the existing right of access has been diverted and alternative access that has been given.

19. Compensation :

- (1) Notwithstanding anything contained in any other law for the time being in force no person shall be entitled to claim any compensation for any injury, damage or loss caused or alleged to have been caused as a result of :

- (a) loss of Land or Rent of it in occupation prior declaration of the State Road and falling within the road land width of the category of State Road notified by Government of Arunachal Pradesh under Section (3).
 - (b) the restriction imposed against the erection or re-erection of a building or the making or extending of any excavation or tile laying out of any means of access on or across land lying in between the control line and the middle of a State road under Section 14 or Section 15.
 - (c) the regulation or diversion of the existing rights of access under section 18 across lands lying with the Control line and the State road boundary; and
 - (d) the refusal of permission for the laying out of new means of access to a limited access State road under Section 17(3).
- (2) Compensation shall be payable by the state road authority if the appeal of the Claimant is approved by State Government for the following :
- (a) any existing permanent types structure of dwelling/commercial, wherein compliance with the notice served by the state road authority under Section 14(2), building or part thereof has been set back to the building line of any State road.
 - (b) any standing crops, horticulture fruit bearing trees, commercial plants grown by farmers needed to be removed due to new road construction or extension of existing road land boundaries due to up-gradation, re-alignment for geometric improvement/safety measures of state road.
- (3) Where compensation is payable under the provisions of Section 19(2), the claimant may, within three months of the date of notice issued by the State road authority under Section 14(2) as the case may be, prefers his claims for compensation direct to the office of the officer exercising the power of the Collector under Section 29 of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" or any relevant Act in force at the time of acquisition of land for the purpose as amended from time to time.
- (4) Nothing in this Section shall be deemed to preclude the settlement of a claim by mutual agreement in public interest.

20. Determination of compensation :

- (1) When a claim is transferred for disposal under Section 20(2) to an officer exercising the powers of a Collector under Section 29 "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" or any relevant Act for the time being in force at that time, such officer shall make an award determining the amount of compensation payable to the claimant.
- (2) No compensation shall be awarded under Section 19(2)(a) and Section 19(2)(b) unless ;
 - (a) the Claimant Satisfies the officer making the award that the Structure set backed/demolished were Constructed prior to declaration State Road assets under Section 14(2).
 - (b) the Claimant Satisfies the officer making the award that the fruit bearing trees/ horticulture gardens were developed prior to the declaration State Road assets under Section 3.
 - (c) the Claimant Satisfies that no sufficient time for harvesting of Standing agricultural Crops were provided by State road authority by making loss of Crops to the owner of agricultural land.

21. Rights and interest when to be extinguished :

- (1) Whenever an order of determination is made by the Collector under section 20(1), the Collector shall tender payment of compensation determined by him to the person entitled thereto according to the said determination.
- (2) Whenever the amount of compensation is tendered, paid or deposited in the Court, the right or interest in the Private assets stands extinguished free from all encumbrances and the State Government or the State Road Authority shall be free to enforce the provisions of this Act over such assets.

22. Notice for extinguishment of right of interest in property :

- (1) The notice to be given under section 21(1) shall state the particulars of the right or interest in the property to be extinguished and shall require all persons having such right or interest to appear personally or by an agent before the Collector on a day within fifteen days after the publication of such notice. Nature of the rights or interest in the property to be extinguished, the amount and particulars of claims of compensation and the objection, if any, may be required to be stated in writing.

CHAPTER - V

PREVENTION OF UNAUTHORIZED OCCUPATION OF STATE ROAD
LAND AND REMOVAL OF ENCROACHMENTS

- 23. State Road deemed to be State Government property :** All land forming part of a State road which has not already vested in the State Government shall, for the purpose of this Act, be deemed to be the State Government property.
- 24. Prevention of unauthorized occupation of State road :** (1) No person shall occupy any State road or part of a State road for purpose other than traffic or do any act which involves any of the activities mentioned in Section 2(7).
- (2) The State Road Authority may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and rules as may be prescribed by the State Government and on payment of such rent or other charges as may be prescribed under such rules, permit any person :-
- to place a movable encroachment on any State road in front of any building owned by him or make a movable structure overhanging the State road;
 - to put up a temporary owning or tent, pandal or other similar erections or a temporary stall or scaffolding on any State road ; or
 - to deposit or cause to be deposited building materials, goods for sale or other articles to on any State road , or
 - to make temporary excavation, for carrying out any repairs or improvements to adjoining buildings:
- Provided that no such permission shall be deemed to be valid beyond a period of one year at a time unless expressly renewed by the State Road Authority.
- (3) The permission so granted shall clearly specify the date up to which the person is authorized to occupy the State road land, the purpose for which occupation is authorized and the exact portion of the State road permitted to be occupied, and shall also be accompanied by a plan or sketch of that portion of the State road, if necessary.
- (4) The person in whose favour, such a permission has been given shall produce the permit for inspection whenever called upon to do so by any State road official and shall at the end of the period prescribed in the permit release the land occupied by him after restoring it to the same state as before occupation by him.
- (5) The State Road Authority shall maintain a complete record of all such permissions issued, and shall also cause a check-up to be made in every case on the expiration of the period up to which occupation has been authorized to ensure that the land has actually been vacated.
- 25. Power to cancel permission :** (1) The State Road Authority may cancel any permission granted under section 24 :-
- if any rent or charge is not duly paid;
 - if the purpose for which the permission was given has ceased to exist ;
 - in the event of any breach of any terms and conditions of such permission;
 - if the land on which such encroachment has been made is required for any public purpose or such encroachment is causing impediment or danger to traffic.
- (2) Where the permission has been cancelled under Section 25 (b) or Section 25 (d), any rent or charge paid in advance shall be refunded to the holders of such permission less the amount, if any, due to the State Government.
- 26. Removal of encroachment :** (1) When, as a result of the annual check of State road boundaries made under section 11 or otherwise, the State Road Authority is satisfied that an encroachment has taken place on the State road under its jurisdiction, it shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original conditions prior to encroachment within such time as may be specified in the notice, and if the person fails to comply with the notice, the State Road Authority shall cause the encroachment to be removed, with assistance of Police, if required.
- (2) Whenever an encroachment is made for the purpose of exposing articles for sale or for opening temporary booth for vending or publicity or for other like purposes, the State Road Authority shall with the help of Police, if necessary, have such encroachment summarily removed.
- 27. Recovery of cost of removal of encroachment :** Whenever a State Road Authority removes any encroachment under this Act, the actual expenditure involved in removal of road encroachment plus fifteen percent for overhead charges shall be recovered from the person responsible for the encroachment in the manner as may be prescribed.

- 28. Compensation not admissible for unauthorized action :** (1) If any person has erected, re-erected, added or altered any building on any land which is required for the purpose of State road without prior authorization then any appreciation in the utility of the land from such erection, re-erection, addition or alteration shall not be taken into account in determining the amount of compensation under section 20.
- (2) No compensation shall be payable for the removal of any encroachment.

CHAPTER - VI

SUPPLEMENTAL PROVISIONS TO SECURE SAFETY OF TRAFFIC AND PREVENTION OF DAMAGE TO STATE ROADS

- 29. Prevention of obstruction line of sight of persons using State road :** (1) Whenever the State Road Authority is of the opinion that it is necessary for the prevention of danger arising from obstructions of the view or distraction of the attention of persons using any State road, specially at any bend or corner of the State road, it may serve a notice upon the owner or occupier of the land alongside or at the bend or corner of such State road to alter or remove altogether, within such time and in such a manner as may be specified in the notice, the height or character of any existing wall (not being a wall forming part of a permanent structure), fence, hedge, tree, advertisement post, bill board or any other object thereon, so as to eliminate or minimize the apprehended danger.
- (2) If any person upon whom a notice has been served under Section 29(1), object to comply with any requirement of such notice, he may, within 14 days of its receipt, send to the State Road Authority, his objection in writing stating the reasons thereof.
- (3) The State Road Authority shall, within 14 days of the receipt of the objection consider the grounds advanced and shall, by order in writing either withdraw the notice or amend or confirm it.
- (4) If a person is aggrieved by an order issued by a State Road Authority under Section 29(3), he may prefer an appeal within 7 days from the date of such order to the Collector of the district, whose decision in the matter shall be final.
- (5) If any person fails to comply with the notice served on him under Section 29(1) as amended or confirmed, as the case may be under Sections 29(3) or 29(4), the State Road Authority may take action to alter or remove the object causing obstruction or distraction of view at its own expense and such expenditure together with 15% departmental charges, shall be recovered from such person in accordance with the provisions of section 27 without prejudice to any other action which may be taken against her/him.
- 30. State Road Authority to regulate traffic when State road is deemed unsafe prescribing axle load limit or category of vehicles :** If at any time, it appears to a State Road Authority that any State road in its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such rules as may be prescribed in this behalf, either close the State road or any regulate the class, number and speed of vehicles using the State road.
- 31. Prohibition of use of heavy-vehicles on certain State Road :** Where the State Road Authority is satisfied that the surface of any State road or a portion thereof or any bridge, culvert or causeway built on or across any State road is not designed to carry vehicles of which the laden weight exceeds a certain limit it may, subject to such rules as may be prescribed in this behalf, prohibit or restrict the plying of such vehicles on or over such State road or such part of the State road or such bridge, culvert or causeway.
- 32. Restriction of traffic where State road is temporarily closed :** Where, in pursuance of Section 8(c) and 8(d) or in exercise of the powers under Section 30 or Section 31, the State Road Authority desires to temporarily close any State road or part of it to traffic or to restrict or regulate traffic thereon in any manner, it shall request the authority authorized to control traffic under any law in force, to enforce the restrictions in the said manner.
- 33. Procedure to be followed when State road authority wishes to close any State road permanently :** (1) Where, in pursuance of Section 8(c) or in exercise of Section 30 State Road Authority desires to permanently close down any State road or part thereof, it shall give notice of its intention so to do in the Official Gazette, and shall cause further publicity to be given to the notice in the manner prescribed under Section 12(4).
- (2) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence, and shall also invite objections if any, to the proposal to be submitted within such time as may be specified.

- (3) The State Road Authority shall finalize its proposal to close down any State road or part of it after considering the objections, if any, received within the specified time, and shall submit the final proposal to the State Government for approval together with such objections, as may have been received against the proposal.
- (4) The State Government may either approve the proposal, with or without modifications, or reject it.
- (5) When the State Government has approved the proposal, it shall publish its orders in the Official Gazette.
- (6) When the orders of the State Government have been published in the Official Gazette, the State Road Authority shall arrange for further publicity to be given to the orders in the manner prescribed under Section 12(4) and the State road or part thereof shall then be closed.

34. Consent of State Road Authority required to do certain act on State road :

- (1) Notwithstanding anything contained in any other law for the time being in force, no person other than a State Road Authority shall construct or carry any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any State road, except with the specific consent of the State Road Authority.
- (2) In giving its consent, the State Road Authority may impose such conditions as it may be necessary and may also impose a rent or other charge for any land forming part of the State road occupied by or applied for the proposed work.
- (3) If any person constructs or carries out any work in contravention of Section 34 (1), the State Road Authority may arrange for the removal of such work and restoration of the State road to its former condition in accordance with the provisions of section 26 as if the work constituted an encroachment on the State roads and such expense as the State road authority may incur for this purpose, together with 15% overheads departmental charges thereon, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure prescribed under section 27 in so far as that procedure is applicable.

35. Prevention of damage and to repair of State road : (1) No person shall wilfully or negligently cause or allow any vehicle or animal in his charge to cause any damage to any State road.

(Explanation - For the purposes of this section habitual parking of vehicle for repair or for any other purpose, letting animals to graze on State road and keeping animals and poultry to stay on the State road land shall be deemed to be act causing damage to the State road.)

- (2) No person shall wilfully or negligently damages state road by cutting hills side or valley side slopes.
- (3) (a) wherein contravention of Section 35(1) and 35(2), any damage has been caused to any State road, the State road authority shall have the damage repaired and the expenses involved, together with 15% overheads departmental charges, shall without prejudice to any other action that may be taken against the person responsible for the contravention of section 35(1) and 35(2), be recovered from him in accordance with the procedure prescribed under section 27 in so far as that procedure is applicable.
- (b) Failing to comply section 35(3)(a) shall be punishable with imprisonment not exceeding three months with the payment of penalty as determined under section 35(3)(a).

CHAPTER - VII

OFFENCES, PENALTIES AND PROCEDURE

- 36. General provision for punishment of offences :** Whoever contravenes any provision of Chapters II to VI of this Act or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to ten thousand rupees (₹ 10,000) or if, having been previously convicted of any offence under this Act, with fine which may extend to fifty thousand rupees (₹ 50,000).
- 37. Penalty for disobedience of orders, obstructions and refusal to give information etc.** Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or obstructs any functions that such person or authority is required under this Act, to discharge, or being required by or under this Act, to supply any information which he fails or supplies any information which he knows to be false or which he does not believe to be true shall, if no other penalty is provided for the offence be punishable with fine which may extend to ten thousand rupees (₹ 10,000).

38. Penalty for contravention of restrictions relating to access or erecting any building etc. : Whoever erects, re-erects, alters or extends any building structure or makes any excavation or construct any means of access to or from State road or does any other work in contravention of section 14(1), section 15(1) and section 17(3) shall be punishable :-

- (a) with fine which may extend to fifty thousand rupees (₹ 50,000) ; and
- (b) with further fine which may extend to five thousand rupees (₹ 5000) for each day after such conviction during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original condition.

39. Penalty for unauthorized occupation of State road land : Whoever occupies or makes any encroachment on any State road land in contravention under section 24(1) or fails to comply with the notice served on him by section 26(1) for no valid reason, he shall, on conviction be liable to pay :-

- (a) a fine which may extend to fifty thousand rupees (₹ 50,000) for the first offence, and
- (b) with further fine which may extend to a lumpsum penalty of ten thousand rupees (₹ 10,000) plus a daily levy not exceeding one thousand rupees (₹ 1000) for each day for which the offence continues.

40. Penalty for causing damage to State roads : Whoever, wilfully causes or allows any vehicle or animal in his charge to cause any damage to any State road, shall be punishable with fine which may extend to twenty thousand rupees (₹ 20,000).

41. Power to compound offences : The State Road Authority may, either before or after the institution of the proceedings, compound an offence against any provision of this Act or any rule framed thereunder, in the manner as may be prescribed.

42. Offences by companies : (1) Where the person committing any offence under this Act is a company, the company as well as every person who is in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in Section 42(1), where any offence under this Act has been committed by a company and is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other Functionary of the company such Director, Manager, Secretary or other Functionary shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

Explanation- For the purpose of this section :-

- (a) 'Company' means any corporate body and includes a firm or other organization or association of persons or a co-operative society.
- (b) 'Director' in relation to a firm, means a partner in the firm.

43. Cognizance of offences : No court except the Court of Judicial Magistrate First Class shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a State Road Authority.

CHAPTER-VIII

SURVEY OF STATE ROAD LANDS AND STATE ROAD BOUNDARIES FOR PREPARATION OF AUTHORITATIVE PLANS

44. Survey order and appointment of survey officer : (1) Where in pursuance of section 9(3), a State Road Authority wishes to have a survey made with a view to the preparation of authoritative plan or plans for any State road in its charge, it shall request the State Government in writing to order the survey and appoint a Survey Officer of the rank of Group-A, grade for the purpose.

(2) If, on receipt of such request and after making such further enquiries as may be deemed necessary, the State Government is satisfied about the need for such survey, it may, by notification published in the Official Gazette, order that the proposed survey shall be made and shall simultaneously appoint a Survey Officer of the rank of Group-A, grade for the purpose.

45. Survey Officer to publish notification : (1) When a survey has been ordered under section 44, the Survey Officer appointed for the purpose shall publish a notification in the Official Gazette inviting all persons having or claiming to have

any interest on the structures and properties adjoining the State road or its boundaries of which the survey has been ordered, to attend either in person or by an agent at a specified place and time and from time thereafter when called upon for the purpose of pointing out the boundaries and supplying information in connection therewith.

- (2) The Survey Officer shall cause further publicity to be given to notification issued by him under section 45(1) in the manner prescribed in section 12(4).
- (3) A notification published in accordance with section 45(1) and further published in accordance with section 45(2) shall be held to be valid notice to every person having or claiming to have any interest in the property or boundaries of which the survey has been ordered.

46. Survey Officer to give special notice :

- (1) The Survey Officer shall give a special notice to the State Road Authority concerned intimating the date and time from which the survey of the State road shall be carried out.
- (2) The State road authority shall on receipt of such special notice take such steps as may be deemed necessary to watch the survey proceedings and to make representation to the survey officer whenever it has reason to believe that the interests of the State roads are being or likely to be adversely affected.

47. Power of Survey Officer to determine and record undisputed boundary :

- (1) The Survey Officer shall have power to determine and record as undisputed any boundary in respect of which no dispute is brought to this notice.
- (2) Notice of every decision of the Survey Officer under section 47(1) shall be given in the prescribed manner to the other registered holders of the land, the boundaries of which may be affected by the decision and also to the State road authority concerned.

48. Power of Survey Officer to determine and record disputed boundary :

- (1) Where a boundary is disputed, the Survey Officer after making such enquiry as the considers necessary, shall determine the boundary and record it in accordance with his decision and shall also record in writing the reason for his decision.
- (2) Notice of every decision of the Survey Officer under Section 48(1) shall be given in the prescribed manner to the parties to the dispute, to the State road authority and to the other registered holders of the land, the boundaries of which may be affected by the decision;

49. Appeal against order of the Survey Officer under sections 47 and 48 :

- (1) The State Road Authority or any other person affected by the decision under section 47 or section 48 may, within three months of the date of service of notice under those sections appeal to the collector of the district and the decision of such Officer shall be recorded in writing and notice of such decisions given in the prescribed manner to the parties to the appeal. Any modification of the Survey Officer's decision ordered by the appellate authority shall be noted in the record prepared under section 47 or section 48 as the case may be.
- (2) No appeal preferred after the expiry of the said period of three months shall be admitted:

Provided that the time taken to obtain a copy of decision and the map under section 49(3) shall not be taken into account in calculating the said period of three months.

- (3) A copy of the order and copy of the map recording the boundaries as determined under sections 47 and sections 48 or section 49 (1) shall be furnished to the State road authority or to any person interested in such order or map, as the case may be or the application to the Survey Officer on payment of such reasonable cost as may be fixed.

50. Completion of demarcation to be notified by the Survey Officer :

- (1) When the survey of any State road land or its boundaries which has been notified under section 44 has been completed in accordance with the orders passed under sections 47, 48, 49, the Survey Officer shall notify the fact in the Official Gazette and shall cause further publicity to be given to the notification in the manner prescribed under section 12(4).
- (2) Unless the survey so notified is modified by a decree of a civil court under the provision of section 51, the record of the survey shall be conclusive proof that the boundaries as determined and recorded therein have been correctly determined and recorded and shall not be questioned in any court of law.

51. Institution of suit in Civil Court where any person is aggrieved by determination of boundary : (1) The State Road Authority or any other person deeming itself or himself aggrieved by the determination of any boundary under

section 47, 48 or 49 may, subject to the provisions of the law of limitation for the time being in force institute a suit in a civil court of appropriate jurisdiction to set aside or modify the said determination, and the survey, shall, if necessary be altered in accordance with the final decree of the suit, and the alteration, if any, shall be noted in the record;

Provided that in no case such a suit shall be filed after the expiry of one year from the date of the notification under section 50(1).

- (2) The plaintiff in such suit join as parties to it, all authority is not itself the plaintiff, whom he has reason to believe to be interested in the boundary which is the subject of the suit.

CHAPTER -IX MISCELLANEOUS

52. Power to make rules :

- (1) The State Government may after publication the intention of making such rules in the Official Gazette, make rules for the regulation of construction and maintenance of State roads and generally for carrying into effect the purposes of this Act.

53. Powers and duties of Police Officer : Every Police Officer shall forth while furnish information to the nearest State Road Authority or the nearest officer subordinate to the State Road Authority of any offence coming to his knowledge which has been committed against this Act or any rule made under this Act, and shall be bound to assist the State Road Authority and its officers and servants in the exercise of their lawful authority.

54. Duties of Village Officer : Every member of the Village, Panchayat or Non-Governmental Organizations shall forth while inform the nearest police station or the nearest or the nearest State Road Authority or any other officer duly authorized by the State Road Authority whenever he becomes aware that any survey mark of any State road or any mark showing the building or control line determined in respect of a State road has been destroyed, damaged, removed, displaced or otherwise tempered with or that any damage to any State road has been made.

55. Service of notice etc. : (1) Every notice under this Act shall be served or presented :-

- (a) by delivering or tendering it or sending it by a registered post to the person to whom it is addressed or to his agent; or
- (b) if such a person or his agent is not found, then by leaving it at his usual or last known place of abode or by delivering or tendering it to some adult member of his family or by causing it to be fixed on some conspicuous part of the building or land, if any to which it relates.

- (2) Where notice under this Act is required to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier, and the service thereto shall be affected either :-

- (a) by delivering or tendering the notice or sending it by registered post to the owner or occupier of it if there be more owners or occupiers than one, to any one of them, or
- (b) if no such owner or occupier is found, then by giving or tendering the notice to an adult member or servant of his family or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

- (3) If the person to whom a notice is to be served is a minor, service upon his guardian or upon an adult member or servant of his family shall be deemed to be service upon the minor.

56. Constitution of appellate authority : (1) The State Government may, by notification in the Official Gazette, constitute as many appellate authorities as may be necessary for the purposes of this Act.

- (2) The Government may, by notification in the Official Gazette, authorize any officer not below the rank of Chief Engineer in the Public Works Department/Rural Works Department to exercise the powers of appellate authority in such areas as may be specified.

57. Delegation of powers by State Road Authority : The State Road authority may, after obtaining the approval of the State Government by notification in the Official Gazette, delegate any of its powers or duties under clauses (c) and (d) of section 8, sections 24, 26, 27, 31, 32, 33, 34, 35 & Chapter VII of this Act to any officer or authority subordinate to it subject to such conditions if any, as may be specified in such notification.

58. **Persons deemed to be public servants :** All persons acting by the authority of the State Government or of any State Road authority while exercising their powers and performing their duties and functions under this Act or any of the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).
59. **Protection of action taken in good faith :** No suit, prosecution or other legal proceedings shall lie against the State Government or any authority or any person for anything which is in good faith done or intended to be done under or in pursuance of this Act or rules made thereunder.
60. **Power to utilize State road land for other than road purposes :** The State Road Authority may utilize temporarily for purposes other than road purposes, the land forming part of a State road which is not immediately required for the purposes of traffic, dispose of such lands in such manner as may be prescribed.
61. **Living as regards land under the control of Central Government :** Nothing in this Act shall apply to lands vested in or under the control of Central Government or to any area falling within the limits of a Cantonment Board or other authority under the administrative control of the Central Government.
62. **Mode of recovery of sums payable to State road authority :** Any sum payable to the State Road Authority under this Act without prejudice to any other mode of recovery, be on behalf of the State road Authority only.
63. **Act not to apply to National Highways :** For removal of all doubts, it is declared that nothing in this Act shall apply to highways which are or have been declared by or under the National Highways Act, 1956 (Central Act XL VIII of 1956), as National Highways.

G.S. Meena, IAS
Commissioner to the
Government of Arunachal Pradesh,
Itanagar.