



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

ANALYSIS OF THE INDIAN EXPLOSIVES ACT, 1884

~ *Radhika Prasad*

INTRODUCTION

Ever wondered about the legal aspects regarding the use of fireworks during festivals and things like powder-actuated nail guns? Yes, these are some common items we use in our lives. Nevertheless, many of us are not aware of the allowed quantity, handling, standards and other conditions prescribed by statutes. That is when The Indian Explosives Act, 1884 comes into the picture. This central legislation came into force on 1st April, 1887 to regulate manufacture, use, handling and licensing of explosives in India.

REGULATORY AUTHORITY

The Petroleum and Explosives Safety Organization (PESO) established in 1898, under the Department for Promotion of Industry and Trade regulates the handling of explosives, petroleum, compressed gases etc. The Chief Controller of Explosives (CCE), PESO is the licensing authority having power to inspect, seize, examine etc. The appellate tribunal is CCE, if the appeal is made against the Deputy CCE or it is Secretary to the GOI or any higher authority as the Explosives Rules, 2008 prescribes.

EXPLOSIVES

The Black's Law dictionary defines "explosive" as explosive substance: a substance that undergoes rapid combustion, often accompanied by the generation of heat and pressure, resulting in an explosion; explosive device: any device designed to cause an explosion, such as a bomb or

grenade.¹ The act provides an inclusive definition ranging from gunpowder to colored fires, rockets, catridges and many other substances in all states.²

GRANTING, REFUSAL, SUSPENSION AND REVOCATION OF LICENSES

The CCE after conducting inquiry, on satisfaction that the applicant possesses technical know-how and experience in the manufacture of explosives or employs or undertakes to employ someone possessing the same or has a good reason for obtaining the license, grants the license with or without any necessary conditions as provided under section 6D or rejects the application.³ The application for any prohibited explosive can be a ground for refusal. Further, if the CCE has reason to believe that it is prohibited by this act or any other law in force or such applicant is of unsound mind or unfit for a license, or deems that the refusal is necessary for security of public peace or security may refuse to grant the same. On such refusal, the reasons should be recorded in writing and on demand shall provide it to the applicant with a brief statement in all cases other than for public interest.⁴

The CCE may on application or otherwise vary the conditions on which it was issued except the prescribed ones. The CCE may suspend or revoke the license on satisfaction that the grounds for refusal applies or if it was procured by suppressing material information or on wrong information by the applicant or his agent, on contravention of conditions imposed or on non-compliance of the notice or on the application of holder itself, or upon the Court convicting the holder for committing an offence under this act. However, setting aside of the conviction or appeal makes such a suspension or revocation void. The reasons shall be recorded in writing and on demand provide it to the holder with brief statement unless if it is against public interest.

Apart from the CCE, an appellate court or High Court may also order for suspension or revocation. Further, the Central Government may suspend or revoke it by order in the Official Gazette or direct the CCE for the same. The holder after suspension or revocation without any delay is bound to surrender the license to the authority who ordered the suspension or revocation.⁵ Appeals except

¹ Black's Law Dictionary (11th ed. 2019).

² The Indian Explosives Act, section 4D, Gazette of India, 1884.

³ The Indian Explosives Act, section 6B, Gazette of India, 1884.

⁴ The Indian Explosives Act, section 6C, Gazette of India, 1884.

⁵ The Indian Explosives Act, section 6E, Gazette of India, 1884.

for order by Central Government may be preferred before the appellate authority within the prescribed time whose order shall be final.⁶

PENALTIES

For contravention of rules, conditions and provisions, in case of manufacture, imports, exports shall be punishable with imprisonment for a term which may extend to three years, fine upto five thousand rupees or both. In case of possession, use, sale, transportation, imprisonment upto two years and fine upto three thousand rupees or both and for other cases it is fine extending to thousand rupees. Manufacturing, possession and importation of explosives in contravention of any notifications attracts imprisonment upto three years or fine upto five thousand rupees or both.

The owner, master of vessel or aircraft in which importation was done shall be liable with fine upto five thousand rupees except for a reasonable excuse. Section 6A(a), (b), imposes prohibition on young persons and others for manufacture, possession, sale etc and if any such person contravenes, a term upto three years of fine or both is attracted. If a notice on accident⁷ is not given, fine upto five hundred rupees and in case of loss of human life, imprisonment upto three months or fine or both is imposed.⁸

These provisions shall apply to companies and person in charge will be guilty unless on proof that it was done without him knowing and exercised due diligence to prevent the same. However, on proof of consent, connivance, neglect of any director, secretary, manager or any officer, they shall be guilty and be punished in the same manner⁹. To compel payment of fine by owner or master of any aircraft or vessel, the Court has discretion to direct for distress and sale of such vessel or aircraft¹⁰. Further, under this act, abetment and attempt is punished as if an offence is committed.¹¹

CONCLUSION

The legislation is a concise one prohibiting manufacturing, sale, use of dangerous explosives and its handling by young persons ultimately ensuring public safety. The stringent provisions with

⁶ The Indian Explosives Act, section 6F, Gazette of India, 1884.

⁷ The Indian Explosives Act, section 8, Gazette of India, 1884.

⁸ The Indian Explosives Act, section 9B, Gazette of India, 1884.

⁹ The Indian Explosives Act, section 9C, Gazette of India, 1884.

¹⁰ The Indian Explosives Act, section 11, Gazette of India, 1884.

¹¹ The Indian Explosives Act, section 12, Gazette of India, 1884.

regard to the procurement and keeping of licenses manifests the legislative intent of security. Furthermore, the amendments to reflect the changing circumstances provide enhanced safety standards to mitigate risks.