



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ६, अंक ११(३)]

सोमवार, जून २, २०१४/ज्येष्ठ १२, शके १९३६

[पृष्ठ १८, किंमत : रुपये २७.००

असाधारण क्रमांक ४४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Police (Amendment and Continuance) Bill, 2014, (L.A. Bill No. XIV of 2014), introduced in the Maharashtra Legislative Assembly on the 2nd June 2014 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,

Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XIV OF 2014.

A BILL

further to amend the Maharashtra Police Act.

XXII of 1951. Mah. Ord. III of 2014. WHEREAS the Governor of Maharashtra had, with a view further to amend the Maharashtra Police Act, promulgated the Maharashtra Police (Amendment) Ordinance, 2014, on the 1st February 2014 (hereinafter referred to as "the said Ordinance");

AND WHEREAS upon the re-assembly of the State Legislature on the 24th February 2014, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L. A. Bill No. III of 2014, on the 24th February 2014;

AND WHEREAS the said Bill could not be passed by the State Legislature, as the session of the State Legislature was prorogued on the 28th February 2014;

(1)

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance would have ceased to operate after the 6th April 2014, the date on which the period of six weeks from the date of re-assembly of the State Legislature would have expired;

AND WHEREAS it was considered expedient to continue the operation of the provisions of the said Ordinance;

AND WHEREAS both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Police (Amendment and Continuance) Ordinance, 2014, on the 5th April 2014;

Mah.
Ord. VIII
of 2014.

AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fifth Year of the Republic of India as follows:—

Short title and commencement. 1. (1) This Act may be called the Maharashtra Police (Amendment and Continuance) Act, 2014.

(2) It shall be deemed to have come into force on the 1st February 2014.

Amendment of section 2 of XXII of 1951. 2. In section 2 of the Maharashtra Police Act (hereinafter referred to as "the principal Act"),— XXII of 1951.

(a) after clause (1), the following clause shall be inserted, namely:—

“(1A) “Competent Authority” means the Competent Authority mentioned in section 22N; ”;

(b) after clause (6), the following clauses shall be inserted, namely:—

“(6A) “General Transfer” means posting of a Police Personnel in the Police Force from one post, office or Department to another post, office or Department in the month of April and May of every year, after completion of normal tenure of two years;

“(6B) “Mid-term Transfer” means transfer of a Police Personnel in the Police Force other than the General Transfer; ”;

(c) after clause (10), the following clause shall be inserted, namely:—

“(10A) “Police Establishment Board No. 1”, “Police Establishment Board No. 2”, “Police Establishment Board at Range Level” and “Police Establishment Board at Commissionerate Level” means the Boards constituted under sections 22C, 22E, 22G and 22I, respectively; ”;

(d) after clause (11), the following clauses shall be inserted, namely:—

“(11A) “Police Personnel” means any member of the Police Force appointed or deemed to be appointed under this Act;

“(11B) “post” means any post created on the establishment of Director General and Inspector General of Police and includes the posts assigned for Police Personnel on State or Central deputation; ”;

(e) after clause (14), the following clauses shall be inserted, namely:—

“(14A) “section” means section of this Act;

“(14B) “State Government” means the Government of Maharashtra;

(14C) "State Police Complaints Authority" and "Division Level Police Complaints Authority" means the Authorities constituted under sections 22P and 22S, respectively ;

(14D) "State Security Commission" means the State Security Commission constituted under section 22B ; "

3. In section 6 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely :—

Amendment of section 6 of XXII of 1951.

" (1A) The Director General and Inspector General of Police shall be selected by the State Government from amongst the four senior most Police Officers from the Cadre, on the basis of their length of service, very good record, range of experience, integrity and professional ability for heading the Police Force.

(1B) Once appointed, the Director General and Inspector General of Police shall have a minimum tenure of at least two years, subject to his age of superannuation. The Director General and Inspector General of Police may, however, be relieved of his responsibility by the State Government consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules, 1969 or following his conviction in a court of law or in a case of corruption, or guilty of gross dereliction of his duty or if he is otherwise incapacitated from discharging his duty. "

4. After section 22A of the principal Act, the following Chapter shall be inserted, namely :—

Insertion of Chapter II-A in XXII of 1951.

" CHAPTER II-A

STATE SECURITY COMMISSION, POLICE ESTABLISHMENT BOARDS AND POLICE COMPLAINTS AUTHORITIES.

22B. (1) The State Government shall, by notification in the *Official Gazette*, constitute a State Security Commission for the purpose of exercising such powers and performing such functions as may be assigned to the Commission under this Act.

State Security Commission.

(2) The State Security Commission shall consist of the following members, namely :—

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|--|-----|------------------------------------|
| (a) Minister in-charge of Home Department | ... | <i>Ex-Officio</i>
Chairperson ; |
| (b) Leader of Opposition of State Legislative Assembly | ... | Member ; |
| (c) Chief Secretary | ... | Member ; |
| (d) Additional Chief Secretary (Home) | ... | Member ; |
| (e) Five non-official Members
(to be nominated by the State Government) | ... | Member ; |
| (f) Director General and Inspector General of Police | ... | Member-Secretary. |

(3) On the constitution of the State Security Commission under sub-section (1), the erstwhile State Security Commission constituted by the Home Department under the Government Resolution, dated the 10th July 2013 shall cease to exist :

Provided that, the recommendations and reports made by the erstwhile State Security Commission shall continue to operate as if the same are made by the State Security Commission constituted under this Act.

(4) No person shall be nominated as a non-official member of the State Security Commission if he,—

(a) is not a Citizen of India ; or

(b) has been convicted by a court of law or against whom criminal charges have been framed by a court of law; or

(c) has been dismissed or removed from the Government service, Semi-Government or private service or compulsorily retired on the grounds of corruption or inefficiency or moral turpitude or any kind of misconduct ; or

(d) has been debarred from holding any public office or from contesting any election ; or

(e) holds or has held any political office, including that of member of Parliament or State Legislature or a local body, or is or was an office-bearer of any political party or any organization connected with a political party ; or

(f) is of unsound mind.

(5) While nominating non-official members under clause (e) of sub-section (2), care must be taken to ensure that the representation be given to all sections of the society. Out of the members so nominated, at least one shall be a woman and one shall be from the persons belonging to the Backward Class. The non-official members may be broadly from the following disciplines :—

(a) academician, liberal arts, communication or media ;

(b) science and technology especially in the field of Information Technology, surveillance or security related technology ;

(c) eminence in the legal field ;

(d) corporate governance;

(e) non-Government organizations working in the field of women and child development, social justice, tribal development, rural development or urban development.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, Denotified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

(6) The non-official members nominated under clause (e) of sub-section (2) may be removed by the Chairperson of the State Security Commission on any of the following grounds, namely :—

(a) proven incompetence ;

(b) proven misbehaviour or misuse or abuse of powers ;

(c) failure to attend three consecutive meetings of the State Security Commission without sufficient cause :

Provided that, no member shall be removed under the provisions of this clause except after giving him a reasonable opportunity of being heard ;

(d) incapacitation by reason of mental infirmity ;

(e) otherwise becoming unable to discharge his functions as a member;

or

(f) conviction by a court of law or where charges have been framed against him by a court of law.

(7) The term of office of the non-official members of the State Security Commission shall be of two years. The other terms and conditions of such office shall be such as may be prescribed by the State Government.

(8) The State Security Commission shall exercise the powers and perform the functions as follows :-

(a) lay down the broad policy guidelines for the functioning of the Police Force in the State including for ensuring that the Police Force always act according to the laws of the land and the Constitution of India ;

(b) formulating broad principles for the performance of the preventive tasks and service oriented functions of the Police Force ; and

(c) evaluation of the performance of the Police Force.

(9) The State Security Commission shall meet at least once in every quarter at such time and place and observe such procedure in regard to transact its business as the Chairperson thinks fit.

(10) The recommendations of the State Security Commission shall be advisory in nature.

22C. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board No. 1.

Police
Establishment
Board No.1.

(2) The Police Establishment Board No.1 shall consist of the following members, namely :-

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|---|-----|------------------------|
| (a) Additional Chief Secretary (Home) | ... | Chairperson ; |
| (b) Director General and Inspector
General of Police | ... | Vice-Chairperson ; |
| (c) Director General, Anti-Corruption
Bureau | ... | Member ; |
| (d) Commissioner of Police, Mumbai | ... | Member ; |
| (e) Additional Director General
and Inspector General of Police
(Establishment) | ... | Member-
Secretary : |

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Additional Director General and Inspector General of Police belonging to such Class.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

22D. The Police Establishment Board No. 1 shall perform the following functions, namely :—

Functions of
Police
Establishment
Board No. 1.

(1) Subject to the provisions of this Act, the Board constituted under sub-section (1) of section 22C may, make appropriate recommendations to the State Government regarding the service conditions of Police Officers excluding salary and allowances.

(2) In particular and without prejudice to the generality of the foregoing functions, the Board may perform all or any of the following functions, namely :—

(a) to advise and make recommendations to the State Government regarding the posting and transfer of Police Officers;

(b) to make appropriate recommendations to the State Government in respect of grievances received by the said Board from Police Officers regarding their promotions, disciplinary proceedings and other service matters.

(3) The Board shall perform such other functions as may be assigned to the Board by the State Government, from time to time.

Explanation.—For the purposes of this section, the expression “Police Officer” means a Police Officer of and above the rank of Deputy Superintendent of Police.

Police
Establish-
ment Board
No. 2.

22E. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board No. 2.

(2) The Police Establishment Board No. 2 shall consist of the following members, namely:—

- | | |
|---|------------------------|
| (a) Director General and Inspector General of Police | ... Chairperson ; |
| (b) Director General, Anti-Corruption Bureau | ... Member ; |
| (c) Commissioner of Police, Mumbai | ... Member ; |
| (d) Additional Director General and Inspector General of Police (Law and Order) | ... Member ; |
| (e) Secretary or Principal Secretary, as the case may be (Appeal and Security) | ... Member ; |
| (f) Additional Director General and Inspector General of Police (Establishment) | ... Member-Secretary : |

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Additional Director General and Inspector General of Police belonging to such Class.

Explanation.— For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

Functions
of Police
Establishment
Board No. 2.

22F. The Police Establishment Board No. 2 shall perform the following functions, namely :—

(1) Subject to the provisions of this Act, the Board constituted under sub-section (1) of section 22E may, make appropriate recommendations to the Competent Authority concerned, regarding the service conditions of Police Officers excluding salary and allowances. The Competent Authority shall normally act upon them.

(2) In particular and without prejudice to the generality of the foregoing functions, the Board may perform all or any of the following functions, namely :—

(a) to decide posting and transfer of Police Officers ;

(b) to make appropriate recommendations to the Competent Authority concerned, in respect of the grievances received by the Board from Police Officers regarding their promotions, disciplinary proceedings and other service matters ;

(c) the Board shall perform such other functions as may be assigned to the Board by the State Government, from time to time.

(3) Notwithstanding anything contained in clauses (1) and (2), the State Government may, from time to time, give directions in public interest and administrative exigencies in respect of postings, transfers and disciplinary matters relating to the Police Officers and such directions shall be binding on the Board.

Explanation.— For the purposes of this section, the expression “Police Officer” means a Police Officer of and below the rank of the Police Inspector.

22G. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board at Range Level.

Police
Establishment
Board at
Range Level.

(2) The Police Establishment Board at Range Level shall consist of the following members, namely :—

- (a) Range Inspector General of Police ... Chairperson;
- (b) Two senior-most Superintendents of Police within the Range ... Member;
- (c) The Reader (Deputy Superintendent of Police), in the office of the Range Inspector General of Police ... Member-Secretary:

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Superintendent of Police belonging to such Class.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

22H. The Police Establishment Board at Range Level shall perform the following functions, namely :—

Functions of
Police Establish-
ment Board at
Range Level.

(a) The Board shall decide all transfers, postings and other service related matters of Police Officers of the rank of Police Sub-Inspector to Police Inspector within the Range.

(b) The Board shall be authorized to make appropriate recommendations to the Police Establishment Board No. 2, regarding the postings and transfers out of the Range, of the Police Officers of the rank of Police Sub-Inspector to Police Inspector.

Explanation.—For the purposes of this section, the expression “Police Officer” means a Police Officer of the rank of Police Sub-Inspector to Police Inspector.

Police
Establishment
Board at
Commissioner-
erate Level.

22I. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, a Board to be called the Police Establishment Board at Commissionerate Level.

(2) The Police Establishment Board at Commissionerate Level shall consist of the following members, namely:—

- (a) Commissioner of Police ... Chairperson ;
- (b) Two senior-most officers in the rank of Joint Commissioner or Additional Commissioner or Deputy Commissioner of Police ... Member ;
- (c) Deputy Commissioner of Police (Head Quarter) ... Member-Secretary :

Provided that, if none of the aforesaid members is from the Backward Class, then the State Government shall appoint an additional member of the rank of the Deputy Commissioner of Police belonging to such Class.

Explanation.—For the purposes of this sub-section, the expression “Backward Class” means the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes.

Functions of
Police
Establishment
Board at
Commissioner-
erate Level.

22J. The Police Establishment Board at Commissionerate Level shall perform the following functions, namely:—

(a) The Board shall decide all transfers, postings and other service related matters of Police Officers of the rank of Police Sub-Inspector to Police Inspector within the Commissionerate.

(b) The Board shall be authorized to make appropriate recommendations to the Police Establishment Board No. 2 regarding the postings and transfers out of the Commissionerate, of the Police Officers of the rank of Police Sub-Inspector to Police Inspector.

Explanation.—For the purposes of this section, the expression “Police Officer” means a Police Officer of the rank of Police Sub-Inspector to Police Inspector.

Police
Establishment
Boards to
comply rules
and
regulations.

22K. While performing the functions under this Act, the Police Establishment Board No. 1, Police Establishment Board No. 2, Police Establishment Board at Range Level and Police Establishment Board at Commissionerate Level, shall comply with and follow all the provisions of law including rules and regulations as may be in force, from time to time.

Erstwhile
Police
Establishment
Boards cease
to exist.

22L. On the constitution of the Police Establishment Board No. 1, Police Establishment Board No. 2, Police Establishment Board at Range Level and Police Establishment Board at Commissionerate Level under this Act, the erstwhile Police Establishment Boards constituted by the Home Department under the Government Resolution, dated the 15th July 2013 shall cease to exist :

Provided that, the decisions and recommendations made by the respective erstwhile Police Establishment Boards shall continue to operate as if the

same are made by the respective Police Establishment Boards constituted under this Act.

22M. Nothing contained in this Act shall affect the power of the State Government or any other Competent Authority in respect of all matters relating to disciplinary action against any Police Officer of whatsoever rank. Power of State Government not to be affected.

22N. (1) Any Police Personnel in the Police Force shall have a normal tenure of two years on one post or office, subject to the promotion or superannuation. The Competent Authority for the general transfer shall be as follows, namely :— Normal tenure of Police Personnel, and Competent Authority.

Police Personnel	Competent Authority
(a) Officers of the Indian Police Service	... Chief Minister ;
(b) Maharashtra Police Service Officers of and above the rank of Deputy Superintendent of Police	... Home Minister ;
(c) Officers upto Police Inspector	(a) Police Establishment Board No.2. (b) Police Establishment Board at Range Level. (c) Police Establishment Board at Commissionerate Level :

Provided that, the State Government may transfer any Police Personnel prior to the completion of his normal tenure, if,—

- (a) disciplinary proceedings are instituted or contemplated against the Police Personnel ; or
- (b) the Police Personnel is convicted by a court of law ; or
- (c) there are allegations of corruption against the Police Personnel ; or
- (d) the Police Personnel is otherwise incapacitated from discharging his responsibility ; or
- (e) the Police Personnel is guilty of dereliction of duty.

(2) In addition to the grounds mentioned in sub-section (1), in exceptional cases, in public interest and on account of administrative exigencies, the Competent Authority shall make mid-term transfer of any Police Personnel of the Police Force :

Provided that, the Competent Authority may, by general or special order, delegate its powers under this sub-section to any of its subordinate authority.

Explanation.— For the purposes of this sub-section, the expression “ Competent Authority ” shall mean :—

Police Personnel	Competent Authority
(a) Officers of the Indian Police Service	... Chief Minister ;

- (b) Maharashtra Police Service
Officers of and above the rank
of Police Sub-Inspector ... Home Minister ;
- (c) Police Personnel upto the
rank of Assistant Police
Sub-Inspector ... Director General and
Inspector General of Police.

Separation of
Investigation
Police from
Law and
Order Police.

220. (1) The crime branch or local crime branch and detection or investigation cells in each police station shall concentrate on investigation of crimes exclusively and shall not be entrusted with law and order, security and other duties, ordinarily.

(2) The Unit Commanders shall ensure the co-ordination between the investigation or detection wing and the law and order and other wings of each Unit.

State Police
Complaints
Authority.

22P. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, an Authority to be called the State Police Complaints Authority.

(2) The State Police Complaints Authority shall consist of the following members, namely:—

- (a) A retired High Court
Judge ... Chairperson ;
- (b) A Police Officer superannuated
in the rank not below the rank
of Special Inspector General of
Police ... Member ;
- (c) A person of eminence from
the civil society ... Member ;
- (d) A retired officer not below
the rank of Secretary to the
State Government ... Member ;
- (e) Officer not below the rank
of Additional Director General
and Inspector General of Police ... Member-
Secretary.

(3) On the constitution of the State Police Complaints Authority under this Act, the erstwhile State Police Complaints Authority constituted by the Home Department under the Government Resolution, dated the 15th July 2013 shall cease to exist :

Provided that, the complaints and inquiries pending before the erstwhile State Police Complaints Authority shall continue to operate as if such complaints or inquiries are pending with the State Police Complaints Authority constituted under this Act and the recommendations made by the erstwhile State Police Complaints Authority shall continue to operate as if the same are made by the State Police Complaints Authority constituted under this Act.

(4) The Chairperson of the State Police Complaints Authority shall be chosen by the State Government out of a panel of names proposed by the Chief Justice of the High Court.

Powers and
functions of
State Police
Complaints
Authority.

22Q. (1) The State Police Complaints Authority shall exercise the powers and perform the functions as follows :—

(a) inquire *suo-moto* or on a complaint against Police Officers presented to it by,—

(i) a victim or any member of his family or any other person on his behalf;

(ii) the National or State Human Rights Commission; and

(iii) the police,

into the complaint of,—

(i) death in police custody;

(ii) grievous hurt as defined under section 320 of the Indian Penal Code ;

(iii) rape or attempt to commit rape ;

(iv) arrest or detention without following the prescribed procedure ;

(v) corruption ;

(vi) extortion ;

(vii) land or house grabbing ; and

(viii) any other matter involving serious violation of any provision of law or abuse of lawful authority ;

(b) require any person to furnish information on such points or matters as in the opinion of the authority may be useful for or relevant to the subject matter of inquiry.

(2) The members of the State Police Complaints Authority shall work for the Authority on a whole time basis. The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the non-official members of the State Police Complaints Authority shall be such as may be prescribed by the State Government.

(3) The term of office of a member of the State Police Complaints Authority shall be of three years.

(4) The State Police Complaints Authority shall, while inquiring into any of the matters referred to in sub-section (1) have all the powers of a civil court while trying a civil suit under the Code of Civil Procedure, 1908, in respect of the following matters :—

(a) summoning and enforcing the attendance of witnesses and examining them on oath ;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits ;

(d) requisitioning any public record or copy thereof from any court or office ;

(e) issuing Commissions for the examination of witnesses or documents; and

(f) such other matters as may be prescribed by the State Government.

(5) The State Police Complaints Authority shall have the power to require any person, subject to legal privilege to furnish information on such points or matters as, in the opinion of the State Police Complaints Authority, may be useful for, or relevant to, the subject matter of the inquiry, and any person so required shall be deemed to be legally bound to furnish such information within the meaning of sections 176 and 177 of the Indian Penal Code.

(6) Notwithstanding anything contained in this Act, the State Police Complaints Authority shall be deemed to be a civil court, and when any offence as defined in section 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in view of or in the presence of the Authority, the Authority may cause the offender to be detained in custody and may, at any time before the rising of the Authority on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. If the State Police Complaints Authority in any case considers that a person accused of any of the offences referred to in section 345 of the Code of Criminal Procedure, 1973, and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such State Police Complaints Authority is, for any other reason, of opinion that the case should not be disposed of under section 345 of the Code of Criminal Procedure, 1973, such State Police Complaints Authority, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate. The Magistrate to whom any such case is forwarded shall proceed to deal with, as far as may be, as if it were instituted on a police report.

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1974.

(7) Every proceeding before the State Police Complaints Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code, the State Police Complaints Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

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(8) The State Police Complaints Authority shall have the power to advise the State Government on measures to ensure protection of witnesses, victims and their families who might face any threat or harassment for making the complaint or for furnishing evidence.

(9) Any member of the State Police Complaints Authority as may be authorized by the Chairperson in writing may visit any police station, lock-up, or any other place of detention used by the police and, if he thinks fit, he may be accompanied by a Police Officer.

(10) The State Police Complaints Authority may, for the purpose of field inquiry direct any person as it deems fit to inquire into the subject matter of inquiry and submit a report to the Authority.

Report to be
submitted to
State
Government.

22R. (1) The State Police Complaints Authority shall, after completing the inquiry, submit a report to the State Government within such time as may be prescribed by the State Government.

(2) On receipt of the report from the State Police Complaints Authority, the State Government shall take any of the following steps :—

(a) The State Government shall accept the report and act on the same unless the State Government exercises power of rejecting the report as specified in sub-section (3).

(b) Treat the same as a preliminary inquiry for the purpose of instituting disciplinary proceedings and thereafter the State Government or the Competent Authority, as the case may be, shall direct institution of disciplinary proceedings against the delinquent Police Officer.

(c) If the report of the State Police Complaints Authority discloses a *prima facie* case of commission of a cognizable offence, the State Government shall forward the same to the concerned Police Station and thereupon the same may be recorded as First Information Report under section 154 of the Code of Criminal Procedure, 1973.

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1974.

(3) Notwithstanding anything contained in this Act, the State Government may reject the report of the State Police Complaints Authority in exceptional cases for reasons to be recorded in writing.

(4) In the event of the State Government rejecting the report of the State Police Complaints Authority, it may require the State Police Complaints Authority to hold further inquiry in the matter and submit a fresh report in that behalf.

Explanation.— For the purposes of section 22Q and this section, the expression “Police Officer” means the Police Officer of the rank of Deputy Superintendent of Police or Assistant Commissioner of Police and above.

22S. (1) The State Government shall, by notification in the *Official Gazette*, constitute for the purposes of this Act, an Authority to be called the Division Level Police Complaints Authority.

Division Level
Police
Complaints
Authority.

(2) The Division Level Police Complaints Authority shall consist of the following members, namely :—

- | | |
|---|-----------------------|
| (a) A retired Principal District Judge | ... Chairperson ; |
| (b) A Police Officer superannuated not below the rank of Superintendent of Police | ... Member ; |
| (c) Deputy Commissioner of Police (Headquarter) | ... Member ; |
| (d) A person of eminence from the civil society | ... Member ; |
| (e) An officer of the rank of Deputy Superintendent of Police or equivalent | ... Member-Secretary. |

(3) On constitution of the Division Level Police Complaints Authority under sub-section (1), the erstwhile District Police Complaints Authority constituted by the Home Department under the Government Resolution, dated the 15th July 2013 shall cease to exist.

(4) The provisions of sections 22P, 22Q and 22R regarding the continuance of complaints or inquiries and recommendations, appointment of Chairpersons, powers and functions of the State Police Complaints Authority and submission of its report to the State Government, respectively, shall, *mutatis mutandis*, apply to the Division Level Police Complaints Authority.

22T. (1) Notwithstanding anything contained in this Act, whoever makes any false or frivolous complaint against Police Officer under this Chapter, shall, on conviction, be punished with an imprisonment of either description of a term which may extend to two years or with fine or with both and if such proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Prosecution
for false
complaint
against Police
Officer.

(2) For taking cognizance of an offence under sub-section (1) by the court, the provisions of section 195 of the Code of Criminal Procedure, 1973 shall, *mutatis mutandis*, apply. 2 of 1974.

(3) In case of conviction of a person for having made a false or frivolous complaint under this Act, such person shall be liable to pay to the concerned Police Officer against whom he has made the false or frivolous complaint, in addition to the legal expenses for contesting the case, a compensation which the Court trying the case under sub-section (2) may determine.

(4) Nothing contained in this section shall apply in case of complaints made in good faith.

Explanation.— For the purposes of this section, the expression “ good faith ” shall have the same meaning assigned to it in section 52 of the Indian Penal Code. ” . 45 of 1860.

Repeal of Mah. Ord. VIII of 2014 and saving.

5. (1) The Maharashtra Police (Amendment and Continuance) Ordinance, 2014, is hereby repealed. Mah. Ord. VIII of 2014.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

Power to remove difficulty.

6. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, by order published in the *Official Gazette*, give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The Government of India had appointed a National Police Commission for fresh examination of the role and performance of police, both as a law enforcing agency and as an institution to protect the rights of citizens enshrined in the Constitution of India. The National Police Commission, after examining all the issues in depth, submitted various reports and the final report in the year 1981. Prakash Singh and Others had filed Writ Petition (Civil) No. 310 of 1996 against Union of India and Others in the Hon'ble Supreme Court under article 32 of the Constitution of India for seeking directions to implement the report of the National Police Commission and to ensure the police is accountable essentially and preliminarily to the law of the land and the people.

2. The Hon'ble Supreme Court, while deciding the said Writ Petition in its Judgment, dated the 22nd September 2006 (reported in (2006) 8 SCC 2), has held that it is essential to lay down guidelines to be operative till framing of the appropriate legislation. The Hon'ble Supreme Court has issued directions under article 32 read with article 142 of the Constitution of India regarding constitution of the State Security Commission, Police Establishment Board, Police Complaints Authority, Separation of Investigation Police and Law and Order Police, Selection and Tenure of Director General and Inspector General of Police and Minimum Tenure of Police Officers on Operational Duties.

In pursuance of the said Judgment of the Hon'ble Supreme Court and until appropriate changes are made by law, the Government of Maharashtra issued various Government Resolutions and Notifications, from time to time.

In this backdrop, the Government of Maharashtra took a decision to appoint a Cabinet Sub-Committee to examine the issues involved and to make recommendations for necessary action. As the Cabinet Sub-Committee had recommended to amend the Maharashtra Police Act (XXII of 1951), suitably, the Government of Maharashtra, had considered it expedient to amend the said Act, immediately.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Police Act (XXII of 1951), for the purposes aforesaid, the Maharashtra Police (Amendment) Ordinance, 2014 (Mah. Ord. III of 2014) was promulgated by the Governor of Maharashtra on the 1st February 2014.

4. Thereafter, upon the re-assembly of the State Legislature on the 24th February 2014, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly, as L. A. Bill No. III of 2014, on the 24th February 2014. However, the said Bill could not be passed, as the session of the State Legislature was prorogued on the 28th February 2014. As provided by article 213(2)(a) of the Constitution of India, the said Ordinance would have ceased to operate after the 6th April 2014. It was, therefore, considered expedient to continue the operation of the provisions of the said Ordinance.

5. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the operation of the provisions of the Maharashtra Police (Amendment) Ordinance, 2014 (Mah. Ord. III of 2014), for the purposes aforesaid, the Maharashtra Police (Amendment and Continuance) Ordinance, 2014 (Mah. Ord. VIII of 2014), was promulgated by the Governor of Maharashtra on the 5th April 2014.

6. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,

Dated the 20th May 2014.

R. R. PATIL,

Home Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :-

Clause 4.—Under this clause, which seeks to insert Chapter II-A in the Maharashtra Police Act (XXII of 1951),—

(a) in section 22B,—

(i) in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, a State Security Commission for the purpose of exercising the powers and performing functions assigned to it under the said Act;

(ii) in sub-section (7), power is taken to the State Government to prescribe by rules the terms and conditions of the office of the non-official members of the State Security Commission;

(b) in section 22C, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board No. 1, for the purposes of the said Act;

(c) in section 22E, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board No. 2, for the purposes of the said Act;

(d) in section 22G, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board at Range Level, for the purposes of the said Act;

(e) in section 22I, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Police Establishment Board at Commissionerate Level, for the purposes of the said Act;

(f) in section 22P, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the State Police Complaints Authority, for the purposes of the said Act;

(g) in section 22Q,—

(i) in sub-section (2), power is taken to the State Government to prescribe the salary or honorarium and other allowances payable to, and the other terms and conditions of service of the non-official members of the State Police Complaints Authority;

(ii) in clause (f) of sub-section (4), power is taken to the State Government to prescribe the matter with respect to which the State Police Complaints Authority shall have the powers of a civil court while trying a civil suit under the Code of Civil Procedure, 1908 (5 of 1908);

(h) in section 22R, in sub-section (1), power is taken to the State Government to prescribe the time within which the State Police Complaints Authority shall submit its report to the State Government;

(i) in section 22S, in sub-section (1), power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Division Level Police Complaints Authority, for the purposes of the said Act.

Clause 6.—Under this clause, power is taken to the State Government to remove, by order published in *Official Gazette*, any difficulty arising in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the insertion of Chapter II-A in the Maharashtra Police Act (XXII of 1951) for the constitution of the State Security Commission, State Police Complaints Authority and Division Level Police Complaints Authority in the State. The non-recurring expenditure on this count is estimated to Rs. 253.57 lakh and the recurring expenditure on this count is estimated to Rs. 384.33 lakh and the recurring expenditure on additional transfer grants is Rs. 1855.58 lakh. The said expenditure will have to be met out of the Consolidated Fund of the State.