

GOVERNMENT OF MANIPUR
SECRETARIAT : LAW & LEGISLATIVE AFFAIRS DEPARTMENT

NOTIFICATION

Imphal, November 19, 2018

No. 2/79/2018-Leg/L: The following Ordinance promulgated by the Governor of Manipur on 08-11-2018 is hereby published in the Manipur Gazette for general information:

THE MANIPUR PROTECTION FROM MOB VIOLENCE ORDINANCE, 2018
(Manipur Ordinance No. 3 of 2018)

Promulgated by the Governor of Manipur in the Sixty-ninth
Year of the Republic of India.

An
Ordinance

for the public to create a separate offence for lynching and providing adequate punishment for mob violence so as a special law in the field would instill a sense of fear against the people who involved themselves in such kind of actions and for rehabilitation of victims of lynching and their families and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India guarantees to all persons the right to life and personal liberty and the Equal Protection of Laws;

AND WHEREAS in recent times, there have been a spate of incidents resulting in loss of livelihood, injuries and death of persons at the hands of lynch mobs;

AND WHEREAS it is deemed necessary and expedient to enact legislation for the protection of these rights guaranteed by the Constitution in the light of the Supreme Court directions dated 17-07-2018 in W.P.(C) No. 754 of 2016 (Tahseen S. Poonawalia Vs. Union of India and Others);

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Manipur is pleased to promulgate the following Ordinance :-

CHAPTER – I
PRELIMINARY

- Short title, extent and commencement. 1. (1) This Ordinance may be called the Manipur Protection from Mob Violence Ordinance, 2018.
(2) It extends to the whole of the State of Manipur.
(3) It shall come into force at once.
- Definitions. 2. In this Ordinance, unless the context otherwise requires,-
- (a) "High Court" means High Court of Manipur;
 - (b) "hostile environment" means intimidating or coercive environment that is created against the victim or the family members of the victim or against any witnesses or any one providing assistance to the witness or victim, which includes being subjected to the following acts—
 - (i) boycott of the trade or businesses of such person or making it otherwise difficult for him or her to earn a living; or
 - (ii) public humiliation through exclusion from public services, including education, health and transportation or any act of indignity; or
 - (iii) deprive or threaten to deprive such person of his or her fundamental rights; or
 - (iv) force such person to leave his or her home or place of ordinary residence or livelihood without his or her express consent;
 - (v) extern such person/his or her family from the locality where he or she or family has normally been residing as permanent residents; or
 - (vi) any other act, whether or not it amounts to an offence under this Ordinance, that has the purpose or effect of creating an intimidating, hostile or offensive environment.
 - (c) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;
 - (d) "lynching" means any act or series of acts of violence or aiding, abetting such act/acts thereof, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds or on mere suspicion of commission of a cognizable crime not amounting to a heinous one;
 - (e) "mob" means a group of two or more individuals, assembled with a common intention of lynching;
 - (f) "offensive material" means any material that can be reasonably construed to have been made to incite a mob to

lynch a person on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds;

- (g) "State Government" means State Government of Manipur;
- (h) "victim" means any person, who has suffered physical, mental, psychological or monetary harm as a result of the commission of any offence under this Ordinance, and includes his or her relatives, legal guardian and legal heirs of a deceased victim;
- (i) "witness" means any person who is acquainted with the facts and circumstances, or in possession of any information or has knowledge helpful and required for the purpose of investigation, inquiry or trial of any crime involving an offence under this Ordinance, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence;
- (j) Words and expressions used but not defined in this Ordinance and defined in the Code of Criminal Procedure, 1973 or the Indian Penal Code shall have the meanings assigned to them respectively in the Code of Criminal Procedure, 1973, or as the case may be, in the Indian Penal Code, 1860.

CHAPTER II

DUTIES OF NODAL OFFICER AND POLICE OFFICER

3. (1) The State Government shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district. Designation of Nodal Officer.
- (2) Such Nodal Officer shall be assisted by one of the Deputy Superintendent of Police rank officers in the district for taking measures to prevent incidents of mob violence and lynching.
- (3) They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.
4. (1) The Nodal Officer so designated under section 3 of this Ordinance, shall hold regular meetings (at least once in a month) with the local intelligence units in the district along with all Officers in-charge of Police Station of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. Duties of Nodal Officer.
- (2) The Nodal Officer shall –
- (a) also make efforts to eradicate hostile environment against

any community or caste which is targeted in such incidents.

(b) bring to the notice of the Director General of Police any issue having inter district ramification of mob violence for devising a strategy to tackle the same at the State level.

(c) monitor the investigation of such offences personally and shall be duty bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be.

Duties of
police officer.

5. (1) Every police officer, directly in charge of maintaining law and order in an area, shall take all reasonable steps to prevent any act of lynching including its incitement and commission; and to that end—

(i) make all possible efforts to identify instances of dissemination of offensive material or any other means employed in order to incite or promote lynching of a particular person or group of persons;

(ii) act in furtherance of the duty to prevent lynching in accordance with the powers vested in them; and

(iii) make all possible efforts to prevent the creation of a hostile environment against a person or group of persons.

(2) Every police officer shall take every possible action to the best of his or her ability, to prevent the commission of all offences under this Ordinance.

CHAPTER III

PREVENTION OF ACTS LEADING TO LYNCHING

Duty to
prevent
lynching.

6. (1) It shall be duty of every police officer, in-charge of a police station to take all reasonable steps to prevent any incident of lynching, including its incitement, commission and possible spread in the area under his or her jurisdiction and to that end—

(i) make all possible efforts to identify patterns of violence in the area under their jurisdiction, that has led to occurrence of targeted violence;

(ii) obtain information regarding the likelihood of an act of lynching; and

(iii) act in furtherance of the duty to prevent any act of lynching in accordance with the powers vested in them.

(2) Every police officer exercising powers under this Ordinance in discharge of their duties shall act without any delay in a fair manner.

Power to
exercise
authority
against mobs.

7. (1) It shall be the duty of every police officer in-charge of a police station to exercise his authority on a mob in order to cause it to disperse within his jurisdiction.

(2) In exercise of his authority, a police officer in-charge of a police station may use such powers as vested under Section 129 of the Code of Criminal Procedure, 1973.

(3) The police shall cause to register FIR under section 153A of IPC and/ or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.

(4) It shall be the duty of the Officer in-charge of concerned Police Station, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment to the family members of the victim(s).

CHAPTER IV

OFFENCES AND PUNISHMENT UNDER THIS ORDINANCE

8. Whoever commits an act of lynching—

Punishment for offence of lynching.

(a) where the act leads to the victim suffering hurt, shall be punished with imprisonment of either description for a term which may extend upto seven years and with fine which may extend to one lakh rupees.

(b) where the act leads to the victim suffering grievous hurt, shall be punished with imprisonment of either description for a term which may extend upto ten years, and with fine which may extend to three lakh rupees.

(c) where the act leads to the death of the victim, shall be punished with rigorous imprisonment for life and with fine which may extend to five lakh rupees.

9. Whoever takes part in a conspiracy or conspires to lynch another person, or abets or aides or attempts an act of lynching shall be punished in the same manner as if they had taken part in the actual incident of lynching.

Punishment for conspiracy or abetment or aides or attempt to lynch.

10. Any person who—

Punishment for obstructing legal process.

(a) knows or have reasonable cause to believe that any other person is guilty of an offence under this Ordinance, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest for the said offence, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

(b) threatens a witness with any injury to his person or property or to the person or property of any one in whom that person is interested, with intent to cause harm to that person, or to compel that person to refrain or withdraw from being a witness in any investigation or trial

under this Ordinance shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

CHAPTER V

OTHER OFFENCES AND PUNISHMENT

- Punishment for dissemination of offensive material. **11.** Notwithstanding anything contained in any other law for the time being in force, whoever publishes, communicates or disseminates by any method, print or electronic, any offensive material, shall be punished with imprisonment of either description for a term of not less than one year which may extend upto three years, and with fine which may extend upto fifty thousand rupees.
- Punishment for causing damage to any property movable and immovable. **12.** Notwithstanding anything contained in any other law for the time being in force, whoever causes damage to any property movable or immovable in the act of lynching, shall be punished with imprisonment of either description for a term of not less than one year which may extend upto three years, and with fine which may extend to twice the amount of damage or loss caused to the property, as may be determined by the Court.
- Power of State Government to impose collective fine. **13.** (1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Ordinance, or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such households in the local area of place of occurrence of equal amount of fine from each household who are liable collectively to pay it.

Provided that the fine imposed to a household shall not be realized until the petition, if any, filed by the household or representative under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any household aggrieved by the imposition of the collective fine under sub-section (1) or by the order of imposition, the household or representative may, within the prescribed period, file a petition before the State Government or such other authority as that Government may specify in this behalf for being exempted from such fine or modification of the same imposition

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realizable from any household, and the total fine imposed on the households of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Ordinance or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(5) The portion of collective fine payable by household may be recovered in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate.

14. (1) Any person willfully and maliciously giving false information and so causing an arrest or a search to be made under this Ordinance shall on conviction be liable for imprisonment for a term which may extend to two years or with fine which may extend upto fifty thousand rupees or both.

Punishment for false information or failure to give information, etc.

(2) If any person,-

(a) being legally bound to state the truth of any matter relating to an offence under this Ordinance, refuses to answer any question put to him by an authority in the exercise of its powers under this Ordinance; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Ordinance, which an authority may legally require to sign; or

(c) to whom a summon is issued under this Ordinance either to attend to give evidence at a certain place and time, omits to attend at the place or time, he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend upto ten thousand rupees for each such default or failure.

(3) No order under this section shall be passed by an authority referred to in sub-section (2) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

(4) Notwithstanding anything contained in clause (c) of sub-section (2), a person who intentionally disobeys any direction issued under this Ordinance shall also be liable to be proceeded against under section 174 of the Indian Penal Code.

15. (1) When any police officer, directly in charge of maintaining law and order in an area, omits to exercise lawful authority vested in them under law, without reasonable cause, and thereby fails to prevent lynching, shall be guilty of dereliction of duty.

Dereliction of duty by Police Officer.

Explanation.—For the purposes of this section, dereliction of duty by a police officer shall also include the following:

- (i) failure to provide protection to a victim of lynching;
- (ii) failure to act upon apprehended lynching;
- (iii) refusing to record any information under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 relating to the Commission of an offence under this Ordinance; and
- (iv) failure to perform his duties under sections 4, 5 and 6 of this Ordinance.
- Punishment for dereliction of duty by Police Officer. **16.** Notwithstanding anything contained in any other law being in force, whoever being a police officer is guilty of dereliction of duty shall be punished with imprisonment of one year, which may extend to three years, and with fine which may extend to fifty thousand rupees.
- Punishment for enforcing a hostile environment. **17.** Whoever contributes or enforces a hostile environment on a person or a group of persons, shall be punished with imprisonment for six months.

CHAPTER VI

INVESTIGATION, PROSECUTION AND TRIAL

- Application of Code of Criminal Procedure, 1973. **18.** The provisions of the Code of Criminal Procedure, 1973, shall apply to this Ordinance, save and except as amended or supplemented to the extent provided under this Chapter.
- Offences to be cognizable, non-bailable and non-compoundable. **19.** Unless otherwise specified, all offences specified under this Ordinance, shall be cognizable, non-bailable and non-compoundable.
- Investigation by senior Police Officers. **20.** No police officer below the rank of Sub-Inspector of Police shall investigate any offence committed under this Ordinance.
- Sanction not required for offences under the Ordinance. **21.** The provisions of sections 196 and 197 of the Code of Criminal Procedure, 1973 shall not apply to offences committed under this Ordinance and the Court may take cognizance of such offence when satisfied that the said offence has been committed.
- Cases triable by Designated Judges. **22.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified under this Ordinance shall be tried by designated Judges appointed under this Ordinance.
- Power to appoint Designated Judges. **23.** (1) The State Government by notification in the Official Gazette, appoint as many Designated Judges in consultation with the Chief Justice of the High Court of Manipur as it may be necessary to try offences punishable under this Ordinance.
- (2) A person shall not be qualified for appointment as a Designated

Judge under this Ordinance unless he or she is or has been a Sessions Judge under the Code of Criminal Procedure, 1973.

24. (1) In trying the accused persons, the Designated Judge shall follow the procedure for the trial of warrant cases prescribed by the Code of Criminal Procedure, 1973.

Procedure and power of the Designated Judge.

(2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as they are not inconsistent with this Ordinance, apply to the proceedings before a Designated Judge; and for the purposes of the said provisions, the Court of the Designated Judge shall be deemed to be a Court of Session.

(3) When trying the accused person, a Designated Judge may also try any offence, other than an offence specified under this Ordinance, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial if the offence is connected with the offence under this Ordinance.

(4) If, in the course of any trial under this Ordinance, it is found that the accused person has committed any other offence, the Designated Judge may, whether such offence is or is not an offence under this Ordinance, try such person of such offence and pass any sentence authorised by law for the punishment thereof.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 a Designated Judge shall hold the trial of an offence on day-to-day basis save and except for reasons beyond the control of parties:

Provided that where a Designated Judge is unable to hold the trial of the offence on a day-to-day basis, the reasons for the same, shall be recorded in writing by the Designated Judge.

(6) In so far as reasonably possible, all statements of victims and witnesses should be recorded within a period of one hundred and eighty days from the date of incident.

(7) In so far as reasonably possible, it shall be the endeavour of the Court to ensure that any witness is not required to attend court on more than two dates of hearing.

25. (1) A Designated Judge may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

Rights of victims and witnesses during trial.

(2) A victim shall have the right to reasonable, accurate, and timely notice of any court proceeding and shall be entitled to be heard at any proceeding under this Ordinance in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submissions on conviction, acquittal or sentencing.

(3) The Superintendent of Police, or officer designated by him or her shall inform the victim in writing about the progress of investigations into the offence, whether or not the offender has been

arrested, charge-sheeted, granted bail, charged, convicted or sentenced, and if a person has been charged with the offence, then the name of the suspected offender.

(4) The victim shall have the right to receive a copy of any statement of the witness recorded during investigation or inquiry, and a copy of all statements and documents filed under section 173 of the Code of Criminal Procedure, 1973 including the charge-sheet or closure report submitted by police.

(5) A victim shall be entitled to receive free legal aid if he or she so chooses and to engage any advocate who he or she chooses from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987 and the State Legal Aid Services Authority established under the said Act shall pay all costs, expenses and fees of the advocate appointed by the victim or informant in accordance with relevant rules.

(6) Notwithstanding anything contained in any other law being in force, the Designated Judge trying a case may permit the prosecution to be conducted by any advocate recommended by the victim:

Provided that no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to conduct the prosecution without the prior approval of the Designated Judge.

(7) Where the prosecution is conducted by an advocate recommended by the victim, the expenses arising out of such service, shall be borne by the State Government.

(8) It shall be the duty and responsibility of the State Government for making arrangements for the protection of victims and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.

(9) The State Government shall inform the concerned Designated Judge about the protection provided to any victim, informant or witness and the Designated Judge shall periodically review the protection being offered under this section and pass appropriate orders.

(10) It shall be the duty of the Investigating Officer to record the complaint of victim, informant or witnesses against any kind of intimidation coercion or inducement or violence or threats of violence, whether given orally or in writing and copy of the same shall be sent to the Designated Judge within twenty-four hours of recording it.

Constitution of
review
committee.

26. (1) Notwithstanding anything contained in the Code of Criminal Procedure Act, 1973, every case, registered in connection with an offence under this Ordinance and where the Investigating Officer does not file a charge sheet within a period of three months from the date of registration of the First Information Report, shall be reviewed by a committee headed by an officer of the level of an

Inspector-General of Police to be constituted by the State Government and such committee may pass orders for a further investigation by another officer not below the rank of Deputy Superintendent of Police wherever it comes to the conclusion that, having regard to the nature of investigation already carried out, such investigation would be necessary.

(2) The Committee constituted under sub-section (1) may also review cases of such offences where the trial ends in acquittal and issue orders for filing appeal, wherever required.

(3) The committee shall submit a report of its findings and action taken in each case or cases to the Director General of Police.

CHAPTER VII

RELIEF & REHABILITATION

27. (1) The State Government shall frame a scheme namely, mob violence/lynching victim compensation scheme in the light of the provision of section 357A of the Code of Criminal Procedure Code, 1973 to be paid within thirty days of the incident.

Duty to provide compensation.

(2) Where the death of a person has occurred as a consequence of lynching, the compensation for such death shall be paid to the next of kin of the deceased.

(3) While computing compensation, the State Government must give due regard to the bodily injury, psychological injury, material injury and loss of earnings including loss of opportunity of employment and education, expenses incurred on account of legal and medicinal assistance.

28. (1) Where the offence under this Ordinance has led to displacement of the victims from their residence, the State Government shall arrange for the accommodation of the victims and take all necessary steps to rehabilitate such victims.

Displacement.

(2) Where the offences under this Ordinance, has led to the displacement of more than fifty persons, the State Government shall setup relief camps in the manner specified under Section 29.

29. (1) In accordance with sub-section (2) of this section, the State Government shall establish relief camps in safe locations for all victims.

Establishment of relief Camps.

(2) Relief camps under sub-section (1) shall continue to be operated by the State Government until such persons return to their original habitations, or are resettled in a new suitable location.

(3) Relief camps established under sub-section (1) shall, at the minimum, regardless of the circumstances and without discrimination, provide such persons with:

(a) basic shelter which is appropriate and adequate to protect the residents of the camps from extremes of the weather, and which provides due privacy especially to women and girls;

- (b) twenty four hour security at the relief camp;
- (c) adequate nutritious and culturally appropriate food;
- (d) potable drinking water;
- (e) adequate clothing which is culturally appropriate and sufficient to protect the residents of the camp from extremes of weather;
- (f) essential medical services including antenatal and postnatal care of expectant mothers, pediatric care and emergency and rehabilitative services for the injured and referral services wherever necessary;
- (g) adequate sanitation;
- (h) psycho-social and trauma counseling and psychiatric services;
- (i) child-care services for infants and small children;
- (j) educational facilities for children;
- (k) special facilities and assistance, as may be necessary and reasonable for the medical condition and treatment of certain residents of the relief camps, as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, elderly and disabled persons with special needs;

CHAPTER VIII

APPEALS

Appeals. **30.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973;

(i) an appeal shall lie as a matter of right from any judgment, sentence or order, not being interlocutory order, of a Designated Judge to the High Court both on facts and on law; and

(ii) Every appeal under this section shall be preferred within a period of sixty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days.

CHAPTER IX

MISCELLANEOUS


Power to remove difficulties. **31.** If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty.

32. The provisions of this Ordinance shall be in addition to, and not in derogation of, any other law for the time being in force except to the extent the provisions of other laws are inconsistent with the provisions of this Ordinance. Act to be in addition to any other law.

33. The State Government shall have the power to make rules to give effect to the provisions of this Ordinance. Power to make rules.

Raj Bhavan, Imphal
The 8th November, 2018

Sd/-
(Najma A. Heptulla)
Governor of Manipur


(Nungshitombi Athokpam)
Secretary (Law) to the Govt. of Manipur.

Copy to :

1. The Secretary to Governor, Manipur, Raj Bhavan, Imphal
2. The Secretary to Chief Minister, Manipur
3. P.S. to Minister (Law & Legislative Affairs), Manipur.
4. P.S. to Chief Secretary, Government of Manipur.
5. The Director, Printing and Stationery, Manipur for publication of the above Notification in the Manipur Gazette Extra-Ordinary and to send 5 (five) copies of the publication to the Law & Legislative Affairs Department, Government of Manipur.
- ✓ 6. The Website Manager, IT Department, Government of Manipur for uploading the above Notification in the Manipur Government Website.
7. The Guard File.