

BILLS INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE STATE OF TAMIL NADU

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 25th October, 2013 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 21 of 2013

A Bill to provide for a law to carry out the directions of the Hon'ble Supreme Court in Prakash Singh case regarding Police reforms and for matters connected therewith and incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER - I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Tamil Nadu Police (Reforms) Act, 2013.

(2) It shall be deemed to have come into force on the 11th day of September 2013.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Board" means the Police Establishment Board constituted under section 8;

(b) "Commission" means the State Security Commission established under section 5;

(c) "Government" means the State Government;

(d) "Police Officer" means any member of the Tamil Nadu Police and includes an Indian Police Service (IPS) officer working in connection with the affairs of the State and the Tamil Nadu Police;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "subordinate ranks" means all ranks below the rank of Deputy Superintendent of Police or its equivalent;

(g) "supervisory ranks" means ranks of Deputy Superintendent of Police or its equivalent and above;

(2) Words and expressions used in this Act, but not defined specifically shall have the same meaning as provided in the Police Act, 1861, the Tamil Nadu District Police Act, 1859, the Chennai City Police Act, 1888, the Code of Criminal Procedure, 1973 and the Indian Penal Code.

Central Act V
of 1861.
Central Act
XXIV of 1859.
Tamil Nadu
Act III of
1888. Central
Act 2 of
1974. Central
Act XLV of
1860.

CHAPTER - II.**TERM OF OFFICE OF DIRECTOR GENERAL OF POLICE AND OTHER POLICE OFFICERS.**

3. (1) The Government shall appoint the Director General of Police from amongst the five senior-most Police Officers of the Department empanelled by the Union Public Service Commission for the post of Director General of Police, having regard to length of service, very good record and range of experience for heading the Police Force.

Selection,
appointment
and tenure of
Director
General of
Police.

(2) Notwithstanding anything contained in the Service Rules, the Director General of Police appointed under sub-section (1) shall hold the post for a minimum period of two years, irrespective of the date of his/her superannuation.

(3) The Director General of Police may be relieved of his/her responsibilities under the following circumstances, namely:—

(a) on conviction by a court of law in a criminal case or a case of corruption;

(b) on punishment of dismissal, removal or compulsory retirement from service or of reduction to a lower post awarded under the provisions of All India Services (Discipline and Appeal) Rules or any other relevant rule;

(c) on incapacitation by physical or mental illness or otherwise becoming unable to discharge his/her functions;

(d) on appointment to any other post either under the State Government or Central Government, with his/her consent for such posting;

(e) on other administrative grounds to be recorded in writing.

4. (1) Subject to the service conditions, a Police Officer posted to be in charge of a Police Station, Police District or Commissionerate shall hold office for a minimum period of two years, or till the date of his/her superannuation, whichever is earlier.

Term of office
of holder of
certain
posts.

(2) The provisions of sub-section (1) shall not apply in cases where any Police Officer referred to in sub-section (1) is—

(a) convicted by a court of law in a criminal case or a case of corruption;

(b) involved in a criminal case wherein charges have been framed by a court;

(c) awarded punishment in disciplinary proceedings;

(d) placed under suspension;

(e) subjected to disciplinary proceedings after charges having been framed;

(f) incapacitated by physical or mental illness or otherwise becoming unable to discharge his/her functions;

(g) promoted to a higher post;

(h) to be relieved to fill up a vacancy caused by promotion, transfer or retirement of other officer;

(i) to be relieved for any other administrative grounds to be recorded in writing.

CHAPTER - III.

ADMINISTRATION OF POLICE SERVICE.

State Security Commission.

5. (1) The Government shall establish a Commission to be known as State Security Commission.

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

(a) the Minister, in-charge of the port folio of Police, who shall be the Chairperson, *ex-officio*;

(b) the Leader of the Opposition in the Tamil Nadu Legislative Assembly;

(c) Chairperson, Tamil Nadu Public Service Commission, *ex-officio*;

(d) Chairperson, Tamil Nadu State Human Rights Commission, *ex-officio*;

(e) Chairperson, State Women's Commission, *ex-officio*;

(f) Chairperson, State Minorities Commission, *ex-officio*;

(g) the Chief Secretary, *ex-officio*;

(h) the Secretary in-charge of the Home Department, *ex-officio*; and

(i) the Director General of Police, who shall be the Member-Secretary, *ex-officio*.

Functions of Commission.

6. The Commission shall perform the following functions, namely:—

(a) to frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with the law;

(b) to identify performance indicators to evaluate the functioning of the Police Force, which shall include operational efficiency, public satisfaction, victim satisfaction in respect of Police investigation and response, accountability, optimum utilisation of resources and observance of human rights standards;

(c) to review and evaluate organisational performance of the Police Force; and

(d) such other functions that may be entrusted by the Government.

Annual report.

7. (1) The Commission shall, at the end of every year, submit to the Government the annual report on its work during the preceding year and on the evaluation of performance of the Police Force which shall include recommendations for improvement.

(2) The Government shall lay the annual report referred to in sub-section (1) on the table of the Legislative Assembly.

Constitution and functions of the Police Establishment Board and Committees.

8. (1) There shall be a Police Establishment Board consisting of the Director General of Police and the following four senior Police Officers in the rank of Additional Director General of Police, namely:—

(a) Additional Director General of Police (Administration);

(b) Additional Director General of Police (Law and Order);

(c) Additional Director General of Police (Head Quarters); and

(d) Additional Director General of Police (Intelligence).

(2) The Director General of Police shall be the Chairperson and the senior-most Additional Director General of Police shall be the convener of the Board.

(3) The functions of the Board shall be as follows:-

(a) The Board shall consider and recommend promotion, transfer and posting of the officers in the rank of Superintendent of Police and above up to the rank of Inspector General of Police.

On the recommendations of the Board, the Director General of Police shall send the proposals to the Government for appropriate action.

For promotion, transfer and posting of officers above the rank of Inspector General of Police, the Director General of Police shall send the proposals to the Government for appropriate action.

(b) The Board shall function as a forum to deal with the representations from officers of the rank of Superintendent of Police and above. The Board shall examine such representations and send its recommendations to the Government by the Director General of Police.

(c) The Board shall also make recommendations to the Government for award of Medals.

(4) There shall be a State Police Establishment Committee to consider matters relating to promotion, transfer and postings of officers of and below the rank of Additional Superintendent of Police.

(5) There shall be Zonal, Range, City and District Level Establishment Committees which will be empowered to effect transfers of Police Personnel of subordinate rank within their jurisdiction in accordance with the instructions and guidelines issued by the Government.

(6) The Government shall prescribe the composition, responsibilities, functions and powers of the State, Zonal, Range, City and District Level Establishment Committees.

(7) The recruitment and promotions made under this section shall be in accordance with the service rules governing the respective service, category and class.

9. (1) In every Police Station, except those specifically designated as Crime Police Stations, there shall be a Law and Order Wing and an Investigation Wing, both working under the control of the Station House Officer, who shall ensure co-ordination between the two wings.

Law and Order and Criminal Investigation wings – separation.

(2) The Investigation Wing shall be responsible for investigation and prosecution of all cases registered in the station, including cases detected by the Law and Order Wing.

(3) The Police Officers of the Investigation Wing may be called Detective Constables, Detective Head Constables and Detective Sub-Inspectors. They shall not be diverted to any bandobust work except with the prior approval of the Zonal Inspector General of Police or Commissioner of Police.

(4) The Investigation Wing shall be provided with adequate staff to cope with the work load. The Board shall lay down norms for staff strength taking into account the volume of cases.

(5) Every Police Station shall have a Missing Person Liaison Officer in the rank of a Detective Sub-Inspector to co-ordinate and follow up the cases of missing persons.

(6) Within the Investigation Wing of each Police Station, at least one officer with aptitude and appropriate training and orientation shall be designated as the 'Juvenile or Child Welfare Officer' as required under sub-section (2) of section 63 of the Juvenile Justice (Care and Protection of Children) Act, 2000. This Officer will handle juveniles or children in co-ordination with other Police Officers. These officers together will be members of the Special Juvenile Police Unit of the District or City to co-ordinate and to upgrade the Police treatment of juveniles and children.

Central Act 56
of 2000.

CHAPTER - IV.

POLICE ACCOUNTABILITY.

State Police
Complaints
Authority.

10. The Government shall establish at the State Level, a Police Complaints Authority, which shall have as its Chairperson, the Secretary in-charge of the Home department. The Director General of Police and Additional Director General of Police (Law and Order) shall be the members of the State Police Complaints Authority.

Conduct of
business.

11. The State Police Complaints Authority shall frame its own rules for the conduct of its business.

Functions of
State Police
Complaints
Authority.

12. (1) The State Police Complaints Authority shall inquire into allegations of "serious misconduct" against the Police Personnel in the supervisory ranks, on a complaint received from a victim in the form of a sworn affidavit duly attested by a notary public:

Provided that in case of death in Police custody, the complaint can be received from the legal heirs or close relatives of the victim:

Provided further that the State Police Complaints Authority shall entertain the complaint, only on *prima facie* satisfaction about the veracity of the complaint:

Provided also that no anonymous or pseudonymous complaints shall be entertained:

Provided also that the State Police Complaints Authority shall not entertain complaints of serious misconduct which are the subject matter of any judicial proceedings or inquiry under the Commissions of Inquiry Act, 1952 or the Protection of Human Rights Act, 1993 or the Police Standing Orders.

Central Act 60
of 1952.
Central Act
10 of 1994.

Explanation.—For the purpose of this Chapter, "serious misconduct" means any act or omission of a Police Officer that leads to or amounts to—

(a) death in Police custody;(b) rape;(c) grievous hurt in Police custody.

Recommen-
dations of
State Police
Complaints
Authority.

13. (1) Any complaint of serious misconduct received by the State Police Complaints Authority which is not covered by the fourth proviso to section 12 shall be referred to the Police Complaints Division for enquiry and report, if necessary, after examining the victim or complainant or any other person and relevant documents.

(2) The State Police Complaints Authority shall submit its recommendations to the Government for appropriate action.

14. (1) The Government shall, by notification, constitute a District Police Complaints Authority for each District or Commissionerate.

Constitution of District Police Complaints Authority.

(2) The District Police Complaints Authority shall have as its Chairperson the District Collector/District Magistrate. The Superintendent of Police and the Additional Superintendent of Police shall be the members of the District Police Complaints Authority. In the case of Commissionerates, other than Chennai, the Superintendent of Police of the District and the Deputy Commissioner of the Commissionerate shall be the members. In the case of Commissionerate of Chennai, the District Collector and the Commissioner of Police shall be the members.

Functions of District Police Complaints Authority.

15. (a) The District Police Complaints Authority shall enquire into allegations of misconduct or serious misconduct, against Police Personnel in subordinate ranks, on a complaint received from a victim in the form of a sworn affidavit duly attested by a notary public:

Provided that in the case of death in Police custody, the complaint can be received from the legal heirs or close relatives of the victim:

Provided further that the District Police Complaints Authority shall entertain the complaint, only on *prima facie* satisfaction about the veracity of the complaint:

Provided also that no anonymous or pseudonymous complaints shall be entertained:

Provided also that the District Police Complaints Authority shall not entertain complaints of serious misconduct or misconduct which are the subject matter of any judicial proceedings or inquiry under the Commissions of Inquiry Act, 1952, or the Protection of Human Rights Act, 1993, or the Police Standing Orders.

Central Act 60 of 1952.
Central Act 10 of 1994.

Explanation.— For the purpose of this clause, the expression 'serious misconduct' will have the same meaning assigned in the explanation to section 12 and 'misconduct' means extortion, land or house grabbing or any other incident involving serious abuse of authority;

(b) The District Police Complaints Authority shall refer to the State Police Complaints Authority complaints received by it against Police Officers in the 'supervisory rank' and such other matters as it may deem fit.

Procedure to be followed by District Police Complaints Authority.

16. The District Police Complaints Authority shall follow the following procedure for the disposal of complaints:-

(a) Any complaint of misconduct or serious misconduct received by the District Police Complaints Authority which is not covered by the fourth proviso to section 15 shall be referred to the Police Complaints Division for enquiry and report, if necessary, after examining the victim or complainant or any other person and relevant documents, and after ascertaining from the concerned disciplinary authority whether any disciplinary proceedings have already been initiated in regard to the same complaint of misconduct.

(b) The District Police Complaints Authority shall submit its recommendations to the Government for appropriate action.

Complaint involving supervisory rank and subordinate rank.

17. If a complaint of serious misconduct involving both personnel in supervisory ranks as well as subordinate ranks is made, in respect of the same misconduct, it shall be dealt with by the State Police Complaints Authority.

Supporting staff of State Police Complaints Authority and District Police Complaints Authority.

Police Complaints Division.

Power to make rules.

Power to remove difficulties.

Acts of State Security Commission, Board, State Police Complaints Authority and District Police Complaints Authority not to be invalidated by certain defects.

18. The State Police Complaints Authority and District Police Complaints Authority shall be assisted by requisite supporting staff with such terms and conditions and allowances as may be prescribed for the efficient discharge of their functions.

19. A Police Complaints Division shall be constituted with field units in such manner as may be prescribed to carry out investigations. It will work under the administrative control of an Additional Director General of Police, under the overall control of the Director General of Police. It shall consist of, apart from serving Police Officers, retired Police Officers or Vigilance or Intelligence or Crime Branch Police Officers or personnel serving or retired from other departments.

CHAPTER – V.

MISCELLANEOUS.

20. (1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette*, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act, shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.

(3) Every rule made or notification or order issued under this Act, shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule, notification or order, or the Legislative Assembly decides that the rule, notification or order should not be made or issued, the rule, notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or order.

21. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:

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

22. No act or proceeding of the Commission, Board, State Police Complaints Authority and District Police Complaints Authority shall be called in question merely on the ground of the existence of any vacancy in, or any defect in the constitution of such Commission, Board, State Police Complaints Authority and District Police Complaints Authority.

23. (1) The Tamil Nadu Police (Reforms) Ordinance, 2013 is hereby repealed.

Tamil Nadu
Ordinance
3 of 2013.

(2) Notwithstanding such repeal, anything done, any action taken or any direction given under the said Ordinance shall be deemed to have been done, taken or given under this Act.

J JAYALALITHAA

Chief Minister

STATEMENT OF OBJECTS AND REASONS

The Supreme Court of India in its Judgment in Prakash Singh Vs. Union of India [(2006) 8 SCC 1] directed that every State should enact a new Police Act and also gave directions to the State Government on the following issues till a new legislation is enacted, namely:-

1. State Security Commission.
2. Selection and minimum tenure of Director General of Police.
3. Minimum tenure of Inspector General of Police and other officers.
4. Separation of investigation.
5. Police Establishment Board.
6. Police Complaints Authority.

2. In order to comply with the directions of the Hon'ble Supreme Court, the Government have decided to enact a law in respect of Police Reforms. Accordingly, the Tamil Nadu Police (Reforms) Ordinance, 2013 (Tamil Nadu Ordinance 3 of 2013) was promulgated by the Governor on the 10th September 2013 and the same was published in the *Tamil Nadu Government Gazette* Extraordinary, dated the 11th September 2013.

- 3.** The Bill seeks to replace the said Ordinance.

J JAYALALITHAA
Chief Minister

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 8(6), 11, 14(1), 18, 19, 20 and 21 of the Bill authorize the Government and the State Police Complaints Authority to issue notification or to make rules or to pass orders, as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

J JAYALALITHAA
Chief Minister

A.M.P. JAMALUDEEN,
Secretary.