

The M.P. Vishesh Kshetra Suraksha Adhiniyam, 2000

MADHYA PRADESH

India

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Act 17 of 2001

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The M.P. Vishesh Kshetra Suraksha Adhiniyam, 2000(M.P. Act No. 17 of 2001)[Dated 9th June, 2001]Received the assent of the President on the 9th June, 2001; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)" dated the 15th June, 2001.An Act to provide for more effective prevention of certain unlawful activities of individuals and organisations and matters connected thereto.Be it enacted by the Madhya Pradesh Legislature in the Fifty-first year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Vishesh Kshetra Suraksha Adhiniyam, 2000.(2)It shall extend to such areas as may be notified by the State Government from time to time.(3)It shall [come into force on such date] [W.e.f. 1-9-2001, vide Notification No. F. 19-16-2001-C-1, dated 31-8-2001, Published in M.P. Rajpatra (Asadharan), dated 31-8-2001.] as the State Government may, by notification, appoint.

2. Definitions.

- In the Act, unless the context otherwise requires :- (a)"Advisory Board" means the Board constituted under Section 5; (b)"Organisation" means any combination, body or group of persons whether known by any distinctive name or not and whether registered under any relevant law or not and whether governed by any written constitution or not; (c)"Government" means the State Government; (d)"Notification" means a notification published in the Madhya Pradesh Gazette and the word 'notified' shall be construed accordingly; (e)"Unlawful activity" in relation to an individual or organisation means activity- (i) which constitutes a danger or menace to public order, peace and tranquility; or (ii) which has interfered or tends to interfere with the maintenance of public order; or (iii) which has interfered or tends to interfere with the administration of law or its established institutions and personnel; or (iv) of indulging in or propagating acts of violence, terrorism, vandalism or other acts generating fear and apprehension in the public or indulging in or

encouraging the use of fire-arms, explosives and other devices or disrupting communications by rail or road; or(v)of encouraging or preaching disobedience to established law and its institutions; or(vi)or collecting money or goods forcibly to carry out any one or more of the unlawful activities mentioned above;(f)"Unlawful Organisation" means any organisation which indulges in or has for its object or abets or assists or gives aid, succour or encouragement directly or indirectly, through any medium, device or otherwise to any unlawful activity.

3. Declaration of an organisation as unlawful.

(1)If the Government is of opinion that any organisation is, or has become an unlawful organisation, it may, by notification, declare such organisation to be unlawful.(2)Every such notification shall specify the grounds on which it is issued :Provided that nothing in this sub-section shall require the Government to disclose any fact which it considers to be against the public interest to disclose.(3)Where such unlawful organisation has a registered office, the notification shall be served by sending the same through Registered Post or by handing over to any office bearer in such registered office and in case any office bearer is not available or refuses to receive the notification, the same shall be affixed to some conspicuous part of the office. Where the organisation does not have a registered office the notification shall be published in any one local newspaper.(4)The notification shall be in force for a period of one year and may be extended for such further period or periods not exceeding one year at a time, as may be deemed necessary after reviewing the position.(5)A notification issued under sub-section (1) may be revoked by the Government where it considers that the need of its continuance has ceased.

4. Representation by Organisation.

- Any organisation declared to be unlawful may, if it so chooses, send a representation to the Government within fifteen days from the date of publication of the notification or the date of receipt or affixture thereof, in the manner specified in Section 3, whichever is later and such representation shall be placed before the Advisory Board for its consideration. The organisation may, if it so desires, request for a personal hearing before the Advisory Board.

5. Constitution and reference to the Advisory Board.

(1)(a)The State Government shall whenever necessary constitute an Advisory Board for the purpose of this Act.(b)The Advisory Board shall consist of three persons who are or have been or qualified to be appointed as Judges of the High Court. The Government shall appoint the members and designate one of them as the Chairman.(2)The Government shall, within six weeks from the date of publication of the notification under sub-section (1) of Section 3, make a reference to the Advisory Board and place before it a copy of the notification, supporting material and the representation, if any, received from the unlawful organisation for its consideration.

6. Procedure of the Advisory Board.

(1)The Advisory Board shall after considering the material placed before it and after calling for further information, if necessary from the Government or from any office bearer or member of the organisation concerned and after giving an opportunity of personal hearing to the authorised office bearer of the organisation, shall submit its report to the Government within three months from the date of receipt of reference from the Government.(2)When the organisation seeks personal hearing an intimation specifying the date and time of hearing shall be sent to the address indicated in the representation of the organisation. The concerned organisation shall not be entitled to appear through a lawyer or any person other than an authorised office bearer.(3)The report of the Advisory Board shall specify in a separate part thereof its opinion as to whether or not there was sufficient cause for the issuance of the notification in respect of the organisation concerned.

7. Action upon the report of the Advisory Board.

(1)In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the issuance of the notification declaring the concerned organisation as unlawful, the Government may confirm the notification and continue the same for such period as it thinks fit, subject to the provisions of sub-section (4) of Section 3.(2)In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the issuance of a notification as aforesaid the Government shall revoke the notification forthwith.

8. Penalties.

(1)Whoever is a member of an unlawful organisation or takes part in meeting or activities of any such organisation or contributes or receives or solicits any contribution for the purpose of any such organisation shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.(2)Whoever manages or assists in the management of an unlawful organisation or promotes or assists in promoting a meeting of any such organisation or of any members thereof, or in any way indulges, assists, abets or aids the unlawful activities of any such organisation through whatever manner or whatever medium or device shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.(3)No police officer shall investigate into any offence made out under sub-sections (1) and (2) of this section unless explicitly permitted by the Superintendent of Police of the district concerned.(4)No Court shall take cognizance of any such offence till the District Superintendent of Police has accorded permission to initiate such proceedings

9. Power to notify and take possession of places used for the purpose of unlawful activities.

(1)The District Magistrate may notify any place which in his opinion is used for the activities of an unlawful organisation.Explanation. - For the purpose of this section, place includes a house or building or part thereof or a tent or a vessel.(2)When any place is notified under sub-section (1), the

District Magistrate or any officer authorised in this behalf in writing by him may take possession of the notified place and evict therefrom any person found therein, and the District Magistrate shall forthwith make a report of the taking of possession to the Government :Provided that where such place contains any apartment occupied by women or children reasonable time and facilities shall be provided for their withdrawal with least possible inconvenience.(3)A notified place whereof possession is taken under sub-section (2) shall remain in the possession of the Government as long as the notification under Section 3 in respect of such unlawful organisation remains in force or for such earlier period as the Government decides.

10. Movable property found in the notified place.

(1)The District Magistrate or the officer authorised by him while taking possession of notified place shall also take possession of movable property including money, securities or other assets found therein and shall make a list thereof in the presence of two respected witnesses.(2)If in the opinion of the District Magistrate any article specified in the list is or may be used for or in aid of the purposes of the unlawful organisation he may proceed, subject to the provisions hereinafter contained in this section, to order such articles to be forfeited to the Government.(3)All others articles specified in the list shall be delivered to the person whom the District Magistrate considers to be entitled to possession thereof and if no such person is found entitled thereto, it shall be disposed of in such manner as he may direct.(4)The District Magistrate shall publish a notice in two local newspapers one of which is in Hindi language and shall also affix a copy of such notice on the conspicuous part of the place wherefrom such property was taken possession of specifying the articles which are proposed to be forfeited and calling upon any person claiming; that any article, is not liable for forfeiture to submit in writing within fifteen days from the date of publication of notice any representation he desires to make against forfeiture of the article.(5)The District Magistrate shall consider the representation and pass such orders as he deems fit. If the decision is to forfeit the article he shall give reasons therefor.(6)Against any order of forfeiture passed under sub-section (5), the person who made the representation may file an appeal to the Government within thirty days from the date of receipt of the order. The Government may pass such orders thereon as it deems fit after giving an opportunity to the appellant. Such order of the Government shall be final.(7)The Government may, in its discretion at any time, suo motu call for and examine the records of any order passed by the District Magistrate under sub-section (5) for the purpose of satisfying itself as to the legality, correctness or propriety thereof and pass such order which reference thereto as it may deem fit.(8)If the article seized is livestock or is of a perishable nature, the District Magistrate may, if he thinks it expedient, order the immediate sale thereof and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of the other articles.

11. Power to forfeit funds of an unlawful organisation.

(1)Where the Government is satisfied, after such inquiry as it may think fit, that any moneys, securities or other assets are being used or intended to be used for the purpose of an unlawful organisation, the Government may, by order in writing, declare such money, securities or other assets to whomsoever they belong to be forfeited to Government.(2)A copy of an order under sub-section (1) may be served on the person having custody of the moneys, securities or other assets

and on the service of such copy such person shall pay or deliver the moneys, securities or other assets to the order of the Government :Provided that in the case of moneys or securities, a copy of the order may be endorsed for execution to such officers as the Government may select and such officer shall have power to enter upon and search for such moneys and securities in any premises where they may reasonably be suspected to be, and to seize the same.(3)Before an order of forfeiture is made under sub-section (1), the Government shall give a written notice to the person, if any, in whose custody the moneys, securities or other assets are found of its intention to forfeit and such person may make a representation to the Government against the proposed order of forfeiture within fifteen days of the receipt of the notice. The Government shall after considering the representation, if any, received from the affected person pass such orders as it deems fit.(4)Where the Government has reason to believe that any person has custody of any moneys, securities or other assets which are being used or are intended to be used for the purpose of an unlawful organisation, the Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Government. A copy of such order shall be served upon the person to whom it is directed.(5)The Government may endorse a copy of an order under sub-section (4) for investigation to any officer it may select, and such copy shall be deemed to be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such persons or any officer, agent or servant or such persons, search for moneys and securities and make inquiries from such person touching the origin of and dealings in any moneys, securities or other assets which the investigating officer may suspect are being used or are intended to be used for the purpose of an unlawful organisation.(6)A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1973 (No. 2 of 1974) for the service of summons, or where the person to be served is a Corporation, Company, Bank or Organisation of persons, it may be served on any Secretary, Director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the Corporation, Company, Bank or Organisation at its registered office, or where there is no registered office, at the place where it carries on business. Where the Government are satisfied that in the circumstances it is not reasonably practicable to follow such procedure, they may cause the order to be published in any local newspaper.(7)Where an order of forfeiture is made under sub-section (1) in respect of any moneys, securities or other assets in respect of which a prohibitory order has been made under sub-section (4), such order of forfeiture shall have effect from the date of the prohibitory orders, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the moneys, securities, or other assets forfeited, to the order of the Government.(8)Where any person liable under this section to pay or deliver any moneys, securities or other assets to the order of the Government refuses, or fails to comply with any direction of the Government in this behalf, the Government may recover from such person, as arrears of land revenue or as a fine, the amount of such moneys or other financial assets or the market value of such securities.(9)In this section, 'security' includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money and the market value of any security means the value as fixed by any officer or person deputed by the Government in this behalf.(10)Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (5) shall be divulged by any officer of Government without the consent of the Government.(11)The Government

may, by order, delegate their powers under this section to any officer not below the rank of a District Magistrate and likewise withdraw the same.(12)The Government may, in their discretion at any time, either suo motu or on an application made by the person who made the representation, call for and examine the records of any order passed by the District Magistrate under sub-section (11) for the purpose of satisfying themselves as to the legality, correctness or propriety thereof and pass such orders in reference thereto as they may deem fit :Provided that no order under this sub-section shall be passed by the Government unless the party likely to be affected thereby has had an opportunity of making a representation.

12. Revision.

(1)An application for revision shall lie to the High Court, against any order passed by the Government under sub-section (1) of Section 7 as confirming the notification issued under sub-section (1) of Section 3 or against any order passed under sub-section (4) of Section 3 extending the period of notification or against any order of forfeiture under sub-section (1) of Section 11 questioning the legality, correctness or propriety thereof.(2)A revision petition under this section shall be filed within a period of thirty days from the date of receipt of the order of the Government referred to in sub-section (1).

13. Trespass upon notified places.

- Any person who enters or remains upon a notified place without the permission of the District Magistrate or of an officer authorised in this behalf by the District Magistrate shall be deemed to commit an offence of criminal trespass.

14. Bar of Jurisdiction.

- Save as otherwise expressly provided in this Act and without prejudice to the jurisdiction and powers of the Supreme Court and High Court under the Constitution of India, no proceedings taken under this Act by the Government or the District Magistrate or any officer authorised in this behalf by the Government or by the District Magistrate shall be called in question in any Court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

15. Protection of action taken in good faith.

- No civil or criminal proceeding shall be instituted against any person for anything done in good faith or intended to be done under this Act or against the Government or any person acting on behalf of or by the authority or the Government for any loss or damage caused to or in respect of any property, whereof possession has been taken by the Government under this Act.

16. Constitution of Organisation.

- An organisation shall not be deemed to have ceased to exist by reasons only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such organisation continues between any members thereof.

17. Power to make rules.

- The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.(2)All rules made under this Act shall be laid on the table of the Legislative Assembly.NotificationNotification No. F. 19-37-2001-C-I, dated the 28th December, 2002; Published in M.P. Rajpatra (Asadharan), dated 28-12-2002 at page 145. - In exercise of the powers conferred by sub-section (2) of Section 1 of the Madhya Pradesh Vishesh Kshetra Suraksha Adhiniyam, 2000 (No. 17 of 2001) and in supersession of this Department Notification No. F. 19-16-2001 -C-I, dated the 8th November, 2001, the State Government hereby extends the said Act in whole of the State of Madhya Pradesh with effect from the date of publication of this Notification in the "Madhya Pradesh Gazette".