

The Andhra Pradesh Prevention Of Dangerous Activities Of Communal Offenders Act, 1984

ANDHRA PRADESH

India

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Act 30 of 1984

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The Andhra Pradesh Prevention Of Dangerous Activities Of Communal Offenders Act, 1984[24th September, 1984][Act No. 30 of 1984]An Act to provide for preventive detention of Communal offenders for preventing their dangerous activities prejudicial to the maintenance of Public order and matters connected therewith or incidental thereto. Whereas the public order, public peace and tranquility and communal harmony are adversely affected every now and then by the dangerous activities of certain persons who are known as communal offenders; And whereas having regard to the resources and influence of the persons by whom, the large scale on which, and the manner in which, the dangerous activities are being clandestinely organised and carried on in violation of law by communal offenders in the State of Andhra Pradesh, it is necessary to have a special law to provide for preventive detention of communal offenders and for matters connected therewith or incidental thereto; Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirty-fifth Year of the Republic of India as follows:—

1. Short title extent and commencement

(1) This Act may be called the Andhra Pradesh Prevention of Dangerous Activities of Communal Offenders Act, 1984. (2) It extends to the whole of the State of Andhra Pradesh. (3) It shall be deemed to have come into force on the 27th January, 1984.

2. Definitions

In this Act, unless the context other-wise requires,—(a) "acting in any manner prejudicial to the maintenance of public order" means engaging in or making preparations for engaging in any of the activities which affect adversely or is likely to affect adversely the maintenance of public

order.Explanation:—For the purpose of this clause, public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely inter alia, if any of the activities of the communal offenders directly or indirectly is causing or calculated to cause any harm, danger or alarm, or a feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life;(b)"Communal offender" means a person who, either by himself or as a member or as leader of a gang or an organisation commits or attempts to commit or abets or incites the commission of offences punishable under section 153A and section 153B of the Indian Penal Code(Central Act. XLV 1860), or under Chapter XV of the said Code.(c)"detention order" means an order made under section 3;(d)"detenu" means a person detained under a detention order;(e)"Government" means the State Government of Andhra Pradesh.

3. Power to make an order detaining communal offenders

(1)The Government may, if satisfied with respect to any communal offender, that with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do make an order directing that such person be detained :Provided that the period specified in the order made by the Government under this sub-section shall not in the first instance exceed four weeks, but the Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time so that the total period shall not exceed six months.(2)If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of the District Magistrate or Commissioner of Police the Government are satisfied that it is necessary so to do, they may, by order in writing direct that during such period as may be specified in the order such District Magistrate or Commissioner of Police may also if satisfied as provided in sub-section (1) exercise the powers conferred by the said sub-section.(3)When any order is made under this section by an officer mentioned in sub-section (2) he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than two weeks after the making thereof, unless, in the mean time it has been approved by the Government.

4. Execution of detention order

A detention order may be executed at any place in the State in the manner provided for the execution of warrants of arrest, under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

5. Power to regulate place and condition s of detention

Every person in respect of whom a detention order has been made shall be liable—(a)to be detained in such place and under such conditions including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Government may, by general or special order, specify; and(b)to be removed from one place of detention to another place of detention, within the State by an order of the Government.

6. Detention orders not to be invalid or inoperative on certain grounds

No detention order shall be invalid or inoperative merely by reason—(a)that the person to be detained thereunder, though within the State, is outside the limits of the territorial jurisdiction of the officer making the order; or(b)that the place of detention of such person, though within the State, is outside the said limits.

7. Power in relation to absconding persons

(1)If the Government have, or an officer mentioned in sub section (2) of section 3 has reason to believe that a person in respect of whom a detention order has been made, has absconded, or is concealing himself so that the order cannot be executed, then, the provisions of section 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply in respect of such person and his property subject to the modifications mentioned in this sub-section and, irrespective of the place where such person ordinarily resides, the detention order made against him shall be deemed to be a warrant issued by a competent Court. Where the detention order is made by the Government, any officer, not below the rank of District Magistrate or Commissioner of Police authorised by the Government in this behalf, or where the detention order is made by an officer mentioned in sub-section (2) of section 3, such officer, as the case may be, shall irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the competent Court under sections 82,83, 84 and 85 of the said Code for issuing a proclamation for such person and for attachment and sale of his property situated in any part of the State and for taking any other action under the said sections. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the Court of Session, having jurisdiction in the place where the said person ordinarily resides, as provided in section 86 of the said Code.(2)(a)Notwithstanding anything contained in subsection (1), if the Government have, or an officer mentioned in sub-section (2) of section 3 has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Government or the officer, as the case may be, may, by order notified in the Andhra Pradesh Gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.(b)If such person fails to comply with such order, unless he proves that it was not possible for him to comply therewith, and that he had within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his where abouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.(c)Notwithstanding any thing contained in the said Code, every offence under clause (b) shall be cognizable.

8. Grounds of order of detention to be disclosed to persons affected by the order

(1)When a person is detained in pursuance of a detention order, the authority making the order

shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the Government.(2)Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. Constitution of Advisory Boards

(1)The Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.(2)Every such Board shall consist of a Chairman and two other members, who are, or have been Judges or are qualified to be appointed as Judges of a High Court.

10. Reference to Advisory Board

In every case where a detention order has been made under this Act, the Government shall, within two weeks from the date of detention of a person under the order, place before the Advisory Board constituted by them under section 9, the grounds on which the order has been made and the representation if any, made by the person affected by the order, and in the case where the order has been made by an officer mentioned in subsection (2) of section 3 also the report by such officer under sub-section (3) of that section.

11. Procedure of Advisory Board

(1)The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desires to be heard either in person or through his legal advisor after hearing him in person or through his legal advisor submit its report to the Government, within three weeks from the date of detention of the person concerned.(2)The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.(3)When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.(4)The proceedings of the Advisory Board and its report, excepting that part of the report, in which the opinion of the Advisory Board is specified, shall be confidential.

12. Action upon report of Advisory Board

(1)In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period specified in section 3 as they think fit.(2)In any case where the Advisory Board has reported that there is, in its

opinion, no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the person to be released forthwith.

13. Revocation of detention order

(1) Without prejudice to the provisions of section 15 of the Andhra Pradesh General Clauses Act, 1891 (Act 1 of 1891), a detention order may at any time, be revoked or modified by the Government, notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3. (2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person, in any case, where fresh facts have arisen after the date of revocation or expiry, on which the Government or an officer, as the case may be, are or is satisfied that such an order should be made.

14. Temporary release of persons detained

(1) The Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may at any time cancel his release. (2) In directing the release of any person under sub-section (1), the Government may require him to enter into a bond, with or without sureties, for the due observance of the conditions specified in the direction. (3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be. (4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both. (5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

15. Protection of action in good faith

No suit, prosecution or other legal proceeding shall lie against the Government or any officer or person, for anything in good faith done or intended to be done in pursuance of this Act.

16. Detention orders against communal offender under this Act and not under National Security Act, 1980

On and after the commencement of this Act no order of detention under the National Security Act, 1980 (Central Act 65 of 1980) shall be made by the Government or any of their officers under that Act in respect of any communal offender in the State of Andhra Pradesh on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, where an order of detention may be or can be made against such person, under this Act.

17. Power to order closure of Press

(1) Whenever the Government are satisfied that any press has been used for the purpose of printing or publishing any news paper, news sheet, book or other document containing matter, which is or which is likely to promote disharmony or feelings of enmity, hatred or ill-will between different religious or racial groups or castes or communities or cause fear to the public or to any section of the public whereby any person may be induced to commit an offence against the public order, they may order the closure of such press for such period or periods as they may deem necessary which shall not in the aggregate exceed one month: Provided that no such order shall be made unless the press or the person in charge of the press has been given an opportunity of explaining within twenty four hours as to why such an order shall not be made; Provided further that in exceptional circumstances where it is not practicable to give an opportunity as aforesaid for reasons to be recorded in writing an order for the closure of the press at once may be made; but the reasons for such closure shall be communicated to the press or the person in charge of the press within five days from the date of such closure; Provided also that the expiry of an order of closure shall not bar the making of a fresh order of closure against the same press in any case where fresh facts have arisen or the press continued to be used for the purpose mentioned in this sub-section, after the expiry of the earlier order of closure. (2) Any such power as is specified in sub-section (1) may also be exercised by the District Magistrate or the Commissioner of Police. (3) Any person aggrieved by an order made under sub-section (1) may, within seven days from the date of the order, prefer an appeal to the Metropolitan Sessions Judge in the case of twin cities of Hyderabad and Secunderabad and to the Principal District and Sessions Judge, elsewhere. Explanation .—For the purposes of this section,—(i) "document" includes any painting, drawing or photograph or other visible representation; (ii) "newspaper" means any periodical work containing public news or comments on public news; (iii) "news sheet" means any document other than a newspaper containing public news or comments on public news; (iv) "press" means a printing press, and includes all plant, machinery, duplicators, types, implements and other materials used for the purpose of, or in connection with, printing or multiplying documents.

18. Repeal of Ordinance No. 5 of 1984

The Andhra Pradesh Prevention of Dangerous Activities of Communal Offenders Ordinance, 1984 is hereby repealed.