

The Maharashtra Prevention Of Dangerous Activities Of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons And Video Pirates Act, 1981

MAHARASHTRA

India

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Act 55 of 1981

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The Maharashtra Prevention Of Dangerous Activities Of Slumlords, Bootleggers, Drug-Offenders, Dangerous Persons And Video Pirates Act, 1981Act 55 of 1981An Act to provide for preventive detention of Slumlords, Bootleggers and Drug-offenders, for preventing their dangerous activities prejudicial to the maintenance of public order.WHEREAS public order was adversely affected every now and then by the dangerous activities of certain persons, who are known as Slumlords, Bootleggers and Drug-offenders;AND WHEREAS both Houses of the State Legislature were not in session;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 were being clandestinely organised and carried on in violation of law by them, as Slumlords, Bootleggers or Drug-offenders in the State of Maharashtra, and particularly in its urban areas, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to have a special law in this State to provide for preventive detention of these three classes of persons and for matters connected therewith and, therefore, promulgated the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug-offenders Ordinance, 1981, on the 11th June, 1981;AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in Thirty-second Year of the Republic of India as follows :—

1. Short title, extent and commencement.

(1)This Act may be called the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers Drug-offenders, Dangerous persons and video pirates Act, 1981.(2)It extends to the

whole of the State of Maharashtra.(3)It shall be deemed to have come into force on the 11th June, 1981.

2. Definition

In this Act, unless the context otherwise requires,—(a)“acting in any manner prejudicial to the maintenance of public order” means—(i)in the case of a slumlord, when he is engaged, or is making preparations for engaging, in any of his activities as a slumlord, which affect adversely, or are likely to affect adversely, the maintenance of public order;(ii)in the case of a bootlegger, when he is engaged, or is making preparations for engaging, in any of his activities as a bootlegger, which affect adversely, or are likely to affect adversely, the maintenance of public order;(iii)in the case of a drug-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a drug-offender, which affect adversely, or are likely to affect adversely, the maintenance of public order;(iv)in the case of a dangerous person, when he is engaged, or is making preparation for engaging, in any of his activities as a dangerous person, which affect adversely, or are likely to affect adversely, the maintenance of public order.:(v)in the case of video pirate, when he is engaged or is making preparations for engaging in any of his activities as a video pirates, which affect adversely or likely to affect adversely, the maintenance of public order.Explanation.—For the purpose of this clause (a), 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 any of the persons referred to in this clause, 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 or public health; or disturbs the life of the community by producing and distributing pirated copies of music or film products, thereby resulting in a loss of confidence in administration.:(b)“bootlegger” means a person, who distills, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any provisions of the Bombay Prohibition Act, 1949 and the rules and orders made thereunder, or of any other law for the time being in force or who knowingly expends or applies any money or supplies any animal, vehicle, vessel or other conveyance or any receptacles or any other materials whatsoever in furtherance or support of the doing any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such thing;(b-1) “dangerous person” means a person, who either by himself or as a member or leader of a gang, habitually commits, or attempts to commit or abets the commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code or any of the offences punishable under Chapter V of the Arms Act, 1959.:(c)“detention order” means an order made under section 3;(d)“detenu” means a person detained under a detention order;(e)“drug-offender” means a person, who manufactures, stocks, imports, exports sells or distributes any drug or cultivates any plant or does any other thing in contravention of any provisions of the Drugs and Cosmetics Act, 1940 or the Dangerous Drugs Act, 1930 or the rules and orders made under either Act or in contravention of any other law for the time being in force, or who knowingly expends or applies any money in furtherance or support of the doing of any of the above mentioned things by or through any other person, or who abets in any other manner the doing of any such thing;(f)“slumlord” means a person, who illegally takes possession of any lands (whether belonging to Government, local authority or any other person) or enters into or creates illegal tenancies or leave and licence agreements or any other agreements in

respect of such lands, or who constructs unauthorised structures thereon for sale or hire, or gives such lands to any persons on rental or leave and licence basis for construction, or use and occupation, of unauthorised structures, or who knowingly gives financial aid to any persons for taking illegal possession of such lands, or for construction of unauthorised structures thereon, or who collects or attempts to collect from any occupiers of such lands rent, compensation or other charges by criminal intimidation, or who evicts or attempts to evict any such occupiers by force without resorting to the lawful procedure, or who abets in any manner the doing of any of the abovementioned things;(f-1) “video pirate” means a person against whom at least one chargesheet has already been filed under the Copyrights Act, 1957 for infringement of copyrights relating to cinematograph film or sound recording and the Court has taken cognizance of such offence; and who commits or attempts to commit or abets the commission of offences of infringement of copyrights in relation to cinematograph film or sound recording or any part of sound track associated with the film or sound recording, punishable under the said Act.:(g)“unauthorised structure” means any structure constructed, without express permission in writing of the Municipal Commissioner in a Municipal Corporation area, and elsewhere of the Collector, or except in accordance with any law for the time being in force in the area concerned.

3. Power to make orders detaining certain persons.

(1)The State Government may, if satisfied with respect to any person that with a view to preventing 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.(2)If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary so to do, it 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 :Provided that the period specified in the order made by the State Government under this sub-section shall not, in the first instance, exceed six months, but the State Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.(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 State 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 twelve days after the making thereof, unless, in the meantime, it has been approved by the State Government.

4. Execution of detention orders.

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.

5. Power to regulate place and conditions 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 State 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 order of the State 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. Powers in relation to absconding persons.

(1)If the State Government, 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 sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973, 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 State Government, an officer, not below the rank of District Magistrate or Commissioner of Police authorised by the State 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 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 sub-section (1), if the State Government 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 State Government or the officer, as the case may be, may, by order notified in the Official 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 whereabouts, 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 anything 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 not later than five 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 State 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 State 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 of any High Court or who are qualified under the Constitution of India 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 State Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by it 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, also the report by such officer under sub-section (3) of section 3.

11. Procedure of Advisory Boards.

(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 State Government or from any person called for the purpose through the State 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, after hearing him in person, submit its report to the State Government, within seven 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 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.(5)Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the

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 State Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period prescribed by section 13, as it thinks 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 State Government shall revoke the detention order and cause the person to be released forthwith.

13. Maximum period of detention.

The maximum period for which any person may be detained, in pursuance of any detention order made under this Act which has been confirmed under section 12, shall be six months from the date of detention.

14. Revocation of detention orders.

(1) Without prejudice to the provisions of section 21 of the Bombay General Clauses Act, 1904, a detention order may, at any time, be revoked or modified by the State 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 State Government or an officer, as the case may be, is satisfied that such an order should be made.

15. Temporary release of persons detained.

(1) The State 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 detainee under sub-section (1), the State 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.

16. Protection of action taken in good faith.

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

17. Detention orders against any slumlord, bootlegger, drug-offender or dangerous person to be made under this Act and not under National Security Act.

No order of detention under the National Security Act, 1980, shall be made by the State Government or any of its officer under that Act,—(a)on and after the commencement of this Act, in respect of any slumlord, bootlegger or drug-offender; .(b)on and after the commencement of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug-offenders (Amendment) Act, 1996, in respect of any dangerous person, 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; and(c)on and after the commencement of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders and Dangerous persons (Amendment) Act, 2009, in respect of any video pirate.

18. Repeal of Mah. Ord. III of 1981 and saving.

(1)The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug-offenders Ordinance, 1981, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any order made) under the said Ordinance shall be deemed to have been done, taken or made, as the case may be, under the corresponding provisions of this Act.