

Maharashtra Protection of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016

MAHARASHTRA

India

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Act 44 of 2017

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Maharashtra Protection of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016(Maharashtra Act No. 44 of 2017)(First published, after having received the assent of the President in the " Maharashtra Government Gazette ", on the 3rd July 2017).An Act to provide for the prohibition of social boycott of a person or group of persons including their family members, and for matters connected therewith or incidental thereto.WHEREAS promoting amongst the citizens fraternity, assuring the dignity of individual is enshrined as one of the goal in the Preamble to the Constitution of India;AND WHEREAS the social boycott of any person or a group of persons is violation of the fundamental rights enshrined in part III of the Constitution;AND WHEREAS it has been observed that the inhuman practice of social boycott of a person or group of persons including their family members still persists in various parts of the State;AND WHEREAS it appears that the existing laws have been proved to be not effective in total elimination of the evil of social boycott of a person or group of persons including their family members;AND WHEREAS it is necessary to prohibit social boycott as a matter of social reform in the interest of public welfare;AND WHEREAS with a view to ensure that the people in the State live in harmony with their human rights, it is expedient to provide for the prohibition of social boycott of a person or group of persons including their family members, and for matters connected therewith or incidental thereto;it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows:-

1. Short title and extent.

(1)This Act may be called the Maharashtra Protection of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016.(2)It extends to the whole of the State of Maharashtra.

2. Definitions.

(1) In this Act, unless the context otherwise requires, - (a) "Caste Panchayat" means a Committee or a body formed by a group of persons belonging to any community, whether registered or not, which functions within the community to regulate various practices in the same community, controls personal and social behaviour of any member and collectively resolves or decides any disputes amongst its members including their families, by issuing oral or written dictums, whether called as a "panchayat" or a "gavki" or by any other name or description; (b) "community" in relation to a Caste Panchayat means a group, the members of which are connected together by reason of the fact that by birth, conversion or the performance of any religious rites or ceremonies, they belong to the same religion or religious creed and includes a caste, sub-caste; (c) "Government" or "State Government" means the Government of Maharashtra; (d) "human rights" shall have the same meaning as assigned to it in clause (d) of section 2 of the Protection of Human Rights Act, 1993; (e) "member" means a person who is a member of any community; (f) "Social Boycott Prohibition Officer" means any officer of the Government designated by the State Government, by notification in the Official Gazette, under section 15; (g) "social boycott" means the gesture or an act, whether oral or written, of any social discrimination between the members of the community, specified in section 3; (h) "victim" means any individual who has suffered or experienced physical or monetary harm or harm to his property as a result of the commission of social boycott and includes his relatives, legal guardian and legal heirs. (2) Words and expressions used but not defined in this Act and defined in the Indian Penal Code the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 or the Protection of Human Rights Act, 1993, or as defined in any other law for the time being in force, as the case may be, shall be deemed to have the meanings, respectively, assigned to them in those enactments.

3. Social boycott.

- Any member or a group of members who commit any of the following act or acts shall be deemed to have imposed social boycott on a member or members of the community, - (i) if he prevents or obstructs or causes to prevent or obstructs any member of his community from observing any social or religious custom or usage or ceremony or from taking a part in a social, religious or community functions, congregation, assembly, meeting or procession; (ii) if he refuses or denies or causes to refuse or deny any member of his community the right to perform marriage, funeral or other religious ceremonies and rites which the members of his own community usually and ordinarily perform; (iii) if he commits or causes to commit social ostracism on any grounds; (iv) if he shuns or refuses any member of his community from engaging in the society or cut-of social or commercial ties with such member resulting in making the life of such member miserable; (v) if he prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or from using any place used or intended to be used for a charitable, religious or public purpose which is established or maintained wholly or partly by his own community for and on behalf of the community out of the funds of such community and is normally available for use to or by any other member of his own community; (vi) if he prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by, or intended to be used by, or for the benefit of, his community; or any other public

place;(vii)if he prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a charitable trust created for the benefit of his community;(viii)if he incites or provokes or encourages any member of his community, directly or indirectly, to sever social, religious, professional or business relations with any other member or members of his community;(ix)if he prevents or obstructs or causes to prevent or obstruct any member of his community from entering, lodging in or otherwise using any place of worship or pilgrimage, which is ordinarily open to the members of his community;(x)if he prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social, professional or business relations as he would ordinarily establish or maintain with other members of his community;(xi)if he prevents or obstructs or causes to prevent or obstruct any children of his community from playing together with the children of specific family or families in the community;(xii)if he obstructs or denies or causes to obstruct or deny any member of his community from enjoying human rights;(xiii)if he discriminates or causes to discriminate amongst the members of the community on the basis of morality, social acceptance, political inclination, sexuality or any other basis;(xiv)if he creates or causes to create cultural obstacle or compel any member of his community to wear any particular type of clothes or use any specific language;(xv)if he expels or causes to expel any member of his community from the said community; and(xvi)if he commits any other similar acts which amount to social boycott.

4. Prohibition of social boycott.

- The social boycott is hereby prohibited and its commission shall be an offence.

5. Punishment for social boycott.

- Any person imposes or causes to impose any social boycott on any member of his community, shall, on conviction, be punished with imprisonment of either description, which may extend to three years, or with fine which may extend to one lakh rupees, or with both.Explanation I. - A person who uses or causes to use his power to influence other members of the Caste Panchayat which in its meeting has voted for imposition of social boycott, though not present in such meeting shall be deemed to have committed the offence under this section.Explanation II. - Where at the meeting of the caste panchayat, the resolution to impose social boycott has been passed, every member who has voted in favour of such decision or has participated in the deliberations of the meeting, when such resolution was moved, shall be deemed to have committed the offence under this section.

6. Prohibition on assembling for imposing social boycott.

- No person or group of persons shall gather, assemble or congregate at any time and at any place with the view or intention to deliberate on issue of imposing social boycott on any member of the community ; and such gathering or assembly or congregation shall be treated as an unlawful assembly and every person convening and organizing such assembly and every member thereof participating therein shall be punishable with fine which may extend to one lakh rupees.

7. Punishment for aiding or abetting the offence.

- Every person who aids or abets the commission of an offence under section 4 shall be punished with imprisonment which may extend to three years, or with fine which may extend to one lakh rupees, or with both.

8. Previous actions of social boycott to be void.

(1) Any action of social boycott, on the date of commencement of this Act shall, with effect from the date of such commencement, be void and be of no effect. (2) Any Caste Panchayat, which imposes or cause to impose social boycott shall be deemed to have committed an offence under section 4 and shall be liable to be punished under section 5.

9. Victim to be heard on sentence.

- If the accused is convicted, the Court shall, hear the victim on the quantum of sentence, and then only pass the sentence.

10. Offences to be cognizable and bailable.

- Any offence punishable under this Act shall be cognizable and bailable and triable by a Judicial Magistrate of the First Class.

11. Compounding of offence.

- The offence punishable under this Act may, with the consent of the victim and with the permission of the court, be compoundable : Provided that, the Court shall, by an order, grant permission for compounding of offence subject to the condition of performance of such community services to be rendered by the accused person, as the court may think fit.

12. Procedure to be followed upon receiving complaint.

(1) The victim or any member of his family may file a complaint either through the police or directly to the Judicial Magistrate of the First Class. (2) The Magistrate before whom the complaint is filed under sub-section (1) may direct the police to conduct the investigation. (3) The Magistrate may also direct the police and other concerned authorities to provide the victim and his family, any kind of assistance or help that he thinks necessary till the conclusion of trial.

13. Police officer to take action.

- Upon receiving the information of the offence of social boycott under this Act a police officer may, - (a) remove, or cause to be removed, any barricade or obstruction erected or placed in any place if such police officer has reasonable ground to believe that the barricade or obstruction was so

erected or placed in order to be used for the purpose of committing an offence under this Act; or(b)open or cause to be opened any gate or door, if such police officer has reasonable ground to believe that such gate or door has been closed for the purpose of committing an offence under this Act.

14. Power to prevent certain acts.

(1)Where the Collector or District Magistrate, as the case may be, receives information that there is likelihood of convening of unlawful assembly for imposition of social boycott, he shall, by order, prohibit the convening of any such unlawful assembly and doing of any such act towards the commission of any offence under this Act by any person in any areas as may be specified in the order.(2)The Collector or District Magistrate, as the case may be, may take such steps as he thinks necessary to give effect to such order, including giving of appropriate directives to the police authorities.

15. Social Boycott Prohibition Officer.

- The State Government may, by notification in the Official Gazette, designate any officer of the Government, as the Social Boycott Prohibition Officer as it may consider necessary and may also notify the area or areas within which he shall exercise the powers and perform the duties prescribed by rules.

16. Functions of Social Boycott Prohibition Officer.

- The following shall be the functions of the Social Boycott Prohibition Officer,-(a)to detect the commission of offence under the provisions of this Act by any person in the area of his jurisdiction, by taking such action as he deems fit and to report such cases to the Magistrate;(b)to assist the Magistrate while he is trying the offences and its proceedings under this Act;(c)to assist the police officers in discharge of their duties under this Act;(d)to see that the order of community services passed by the Magistrate is implemented, and to forward a report to the court regarding compliance of such order from the accused;(e)to submit his quarterly report regarding his work to the Magistrate and to the Superintendent of Police or the Commissioner of Police, as the case may be;(f)to discharge such other functions as may be assigned to him by the State Government.

17. Compensation to victim.

- When a sentence of fine is imposed, the Court may, when passing judgement, order the whole or any part of the fine recovered to be given to the victim and his family, as the compensation.

18. Act not in derogation of any other law.

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

19. Framing charges under Indian Penal Code.

- While framing charges for the offences under this Act, the Magistrate may also frame charges under sections 34, 120-A, 120-B, 149, 153- A, 383 to 389 and 511 of the Indian Penal Code, or any other provision of that Code, if the fact discloses the commission of an offence under those provisions.

20. Repeals.

- The following laws are hereby repealed, namely :-(a)Bombay Regulation II of 1827;(b)the Caste Disabilities Removal Act, 1850 (in its application to the State of Maharashtra);(c)the Bombay Prevention of Ex-communication Act, 1949.

21. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.(2)Every rule made under this Act, shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in any rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of a notification in the Official Gazette, of such decision 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 or omitted to be done under that rule.

22. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :Provided that, no such order shall be made under this sub-section after the expiry of a period of two years from the date of commencement of this Act.(2)Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.