

Prevention of Destruction and Damage to Property Ordinance, 2015

JHARKHAND

India

Prevention of Destruction and Damage to Property Ordinance, 2015

Act 2 of 2016

- Published on 1 January 2016
- Commenced on 1 January 2016
- [This is the version of this document from 1 January 2016.]
- [Note: The original publication document is not available and this content could not be verified.]

Prevention of Destruction and Damage to Property Ordinance, 2015(Ordinance 2 of 2016)Whereas, the Legislative Assembly of the State of Jharkhand is not in session,And, Whereas, the Governor of Jharkhand is satisfied that circumstances exists which render it necessary for him to take immediate action to promulgate an Ordinance for Prevention of Destruction and Damage to Property,2015 in the manner herein after appearing ;Now, Therefore, in the exercise of powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Jharkhand is pleased to promulgate the following Ordinance :-An Ordinance to provide for Prevention of Destruction and Damage to Property and for Compensation arising out of such Ordinance and for matters Connected therewith and incidental thereto.Be it promulgated by the Governor of Jharkhand State in the 66th year of the Republic of India as follows :-

1. Short title, extent and commencement.

- (i) This Ordinance may be called the "Prevention of Destruction and Damage to Property Ordinance, 2015"(ii)It extends to the whole of Jharkhand State.(iii)It shall be deemed to have come into force on the date of notification

2. Definition.

- In this Ordinance unless the Context otherwise requires :-(A)"mischief" shall have the same meaning as given in section 425 of the Indian penal code (45 of 1860);(B)Property means and includes -(i)"Public Property" means any property, whether immovable or movable including any machinery which is owned by, or is in the possession of, or under the control of -(a)The Central Government, or(b)Any State Government; or(c)Any local authority; or(d)any corporation established by, or under, a Central, Provincial or State Act or(e)Any institution, concern or

undertaking which the State Government may, by notification in the Official Gazette, specify in this behalf, provided that the Central Government shall not specify, any institution, concern or undertaking under this sub clause unless such institution, concern or undertaking is financed wholly or substantially by funds provided directly or indirectly by the Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State governments.(ii)"Private Property" means any other property which belongs to a private person.(C)"Code" means the Code of Criminal Procedure 1973(D)Words and expressions used in this Ordinance but not defined in the Ordinance and defined in the Code or the Indian Penal Code (45 of 1860) Shall have the meaning assigned to them respectively in the code or as the case may be in the Indian Penal Code.

3. Punishment for committing mischief in respect of Property.

(1)Whoever commits mischief by doing any act in respect of any property, other than private property of the nature referred to in sub-section (2)(ii) shall be punished with imprisonment for a term which may extend to five years and with fine.(2)Whoever commits mischief by doing any act in respect of any public property being-(a)any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy,(b)any oil installation;(c)any sewage work;(d)any mine or factory;(e)any means of public transportation or of telecommunications, or any building, installation or other property used in connection therewith. shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine:Provided that the court may, for reasons to be recorded in its judgement, award a sentence of imprisonment for a term of less than six months.(3)Whoever commits an offence under sub-section (1) or sub-section (2) of section 3 by fire or explosive substance shall be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to ten years and with fine.provided that the court may, for special reasons to be recorded in its judgement, award a sentence of imprisonment for a term of less than one year.

4. Duties of organizer who calls for demonstrations agitations, bands, hartals and like as soon as there is a demonstration organized.

- (i) The organizer shall meet the police to review and revise the route to be taken and to lay down conditions for a peaceful march or protest(ii)All weapons, including knives, lathis and the likes shall be prohibited.(iii)An undertaking is to be provided by the organizers to ensure peaceful march with marshals at each relevant junction. Whoever in violation with the duties mentioned above causes/participates in any demonstrations agitations, bands, hartals shall be punished with the imprisonment which may extend to one year or with fine or with both.

5. Duties of police and administration.

- (i) The police and the State Government Should ensure video graphy of such protests to the maximum extent possible.(ii)The person in charge to supervise the demonstration should be District

Superintendent of Police (if the situation is confined to the district) and the highest Police Official in the State where the situation stretches beyond one district.(iii)In the event of demonstrations turn violent, the Officer in Charge shall ensure that the events are video-graphed through private operators and also request such further information form the media and others on the incidents in question.(iv)The Police Officers shall immediately inform the State Government with reports on the event including damage, destruction if any caused in or during such demonstration.(v)The State Government shall prepare a report on the police reports and other information that may be available to it, and shall file a petition including its report in the High Court or the Supreme Court as the case may be, for Court in question to take suo motu action.

6. Directions to be adopted to assess damages.

- (i) Wherever a mass destruction to property takes place due to protests or thereof, the High Court may issue suo motu action and set up machinery to investigate the damage caused and to award compensation related there to.(ii)Where there is more than one State involved, such action may be taken by the Supreme Court.(iii)In each case, the High Court or the Supreme Court, as the case may be, appoint a sitting or retired High Court Judge or a sitting or retired District Judge as a Claims commissioner to estimate the damages and investigate liability.(iv)An assessor may be appointed to assist the Claims Commissioner.(v)The Claims Commissioner and the assessor may seek instructions from the High Court or the Supreme Court as the case may be, to summon the existing video or other recordings from private and public sources to pinpoint the damage and establish nexus with the perpetrators of the damage.(vi)The principles of absolute liability shall apply once the nexus of the perpetrator with the event that precipitated the damage is established.(vii)The liability will be borne by the actual perpetrators of the crime as well as the organizers of the event giving rise to the liability to be shared, as finally determined by the High Court or the Supreme Court as the case may be.(viii)Exemplary damages may be awarded to an extent not greater than twice the amount of the damages liable to be paid.(ix)Damages shall be assessed for:(a)damages to public property;(b)damages to private property;(c)damages causing injury or death to a person or persons; and(d)cost of the actions by the authorities and police to take preventive and other actions.(x)The Claims Commissioner will make a report to the High Court or the Supreme Court which will determine the liability after hearing the parties. The amount of claims shall be recovered by the process as provided in the code for recovery of fine.

7. Special Provisions regarding bail.

- No Person accused or convicted of an offence punishable under section 3 or section 4 shall, if in custody, be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release.

8. Offence to be cognizable.

- an offence under this Act shall be cognizable, non bailable and triable by the court of the magistrate of 1st class.

9. Power to make Rules.

- The State Government may make rules for carrying out the provisions of this Act.

10. Saving.

- The provisions of this ordinance shall be in addition to and not in derogation of the provisions of any other law for the time being in force and nothing contained in this ordinance shall exempt any person from any proceeding (whether by way of investigation or other wise) which might apart from this ordinance be instituted or taken against him.