

Rajasthan Prevention of Anti-Social Activities Act, 2006

RAJASTHAN

India

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Act 1 of 2008

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Rajasthan Prevention of Anti-Social Activities Act, 2006(1 of 2008)Received the assent of the President on 25.2.2008 (Published in Rajasthan Gazette, Extraordinary, 4(Ka), dated 5.3.2008 at page 25[10])An Act to provide for preventive detention of boot-leggers, dangerous persons, drug offenders, immoral traffic offenders and property grabbers for preventing their anti-social and dangerous activities prejudicial to the maintenance of public order.Be it enacted by the Rajasthan State Legislature in the Fifty-seventh Year of the Republic of India, as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Rajasthan Prevention of Anti-social Activities Act, 2006.(2)It extends to the whole of the State of Rajasthan.(3)It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires.-(a)"authorized officer" means a District Magistrate authorized under sub-section (2) of section 3 to exercise the powers conferred under sub-section (1) of that section;(b)"boot-legger" means a person who habitually distills, manufactures, stores, transports, imports, exports, sells or distributes any liquor,intoxicating drug or other intoxicant in contravention of any provision of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950) 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, vehicles, vessel or other conveyance or any receptacle or any other material whatsoever in furtherance or support of the doing of any of the things described above by or through any other person, or who abets in any other manner the doing of any such thing;(c)"dangerous Person" means a person, who either by himself or as member or leader of a gang, habitually commits, or a attempts to commit or abets the

commission of any of the offences punishable under Chapter XVI or Chapter XVII of the Indian Penal Code, 1860 (Central Act No. 45 of 1860) or any of the offences punishable under Chapter V of the Arms Act, 1959 (Central Act No. 54 of 1959) or any of the offences punishable under first proviso to sub-section (1), and sub-section (1A), of section 51 of the Wild life (Protection) Act, 1972 (Central Act No. 53 of 1972) or any offence punishable under section 67 of the Information Technology Act, 2000 (Central Act No. 21 of 2000);(d)"Detention order" means an order made under section 3;(e)"detenu" means a person detained under a detention order;(f)"drug offender" means a person who habitually.-(i)Imports any drug in contravention of section 10 of the Drugs and Cosmetics Act, 1940 (Central Act No. 23 of 1940) (hereinafter in this definition referred to as "the Drugs Act");(ii)manufactures for sale, or sells, or stocks or exhibits for sale, or distributes any drug in contravention of section 18 of the Drugs Act;(iii)Manufactures for sale or for distribution, or sells, or stocks or exhibits or offers for sale, or distributes any Ayurvedic, Siddha or Unani drug in contravention of section 33-EEC of the Drugs Act;(iv)Cultivates any coca plant, opium poppy, or cannabis plant or produces, manufactures, possesses, sells, purchases, transports, warehouses, imports inter-state, exports inter-state, imports into India, exports from India or trans-ships any narcotic drug or psychotropic substances in contravention of section 8 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act No. 61 of 1985);(v)Knowingly expends or applies any money in furtherance or support of the doing of any of the things mentioned in any of the sub-clauses (i) to (iv) by or through any other person, or(vi)Abets in any manner the doing of any of the things mentioned in any of the sub-clauses (i) to (v);(g)"habitual", with all its grammatical variations, includes acts or omissions committed repeatedly, persistently and frequently having a thread of continuity stringing together similar repetitive acts or omission but shall not include isolated, individual and dissimilar acts or omissions;(h)"immoral traffic offender" means a person who habitually commits or abets the commission of any offence under the Immoral Traffic (Prevention) Act, 1956 (Central Act No. 104 of 1956);(i)"property grabber" means a person who illegally takes possession of any land situated within the urban limits of any district Head Quarters not belonging to himself but belonging to Government, local authority or any other person or who illegally enters into or creates illegal tenancies or leave and licence agreements or any other agreements in respect of such land or who constructs any structure thereon for sale or hire or gives such land to any person on rental or leave and licence basis for construction of any structure thereon or use and occupation or who knowingly gives financial aid to any person for taking illegal possession of such land or for construction of any structure thereon or who collects or attempts to collect from any occupiers of such land 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 it he doing of any of the above mentioned things;(j)"public order" shall have the same meaning as assigned to it under sub-section (4) of section 3.

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, the State Government is satisfied that it is necessary so to do, it may, by order in writing, direct that the District Magistrate, 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 authorized officer 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)For the purpose of this section, a person shall be deemed to be "acting in any manner prejudicial to the maintenance of public order" when such person is engaged in or is making preparation for engaging in any activities whether as a boot-legger or dangerous person or drug offender or immoral traffic offender or property grabber, which affect adversely or are likely to affect adversely the maintenance of public order.Explanation. - For the purpose of this sub-section 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 person referred to in this sub-section directly or indirectly, is causing or is likely to cause any harm, danger or alarm or feeling of insecurity among the public at large or any section thereof or a grave or widespread danger to life, property or public health.

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 warrant of arrest under the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

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 of discipline and punishment for breaches of discipline, as the Government may, be 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. Grounds of detention severable.

- Where a person has been detained in pursuance of an order of detention under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly.-(a)Such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are.-(i)Vague,(ii)non-existent,(iii)not-relevant,(iv)not connected or not proximately connected with such person, or(v)invalid for any other reason whatsoever, and it is not, therefore, possible to hold that the State Government or the authorized officer making such order would have been satisfied as provided in Section 3 with reference to the remaining ground or grounds and made the order of detention.(b)the State Government or the authorized officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.

7. 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 territorial jurisdiction of the authorized officer making the order, or(b)that the place of detention of such person, though within the State, is outside the said limits.

8. Powers in relation to absconding persons.

(1)If the State Government or the authorized officer 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 can not be executed, in that case the State Government or, as the case may be, the authorized officer shall, irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the Competent Court 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, and the provisions contained in section 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) shall mutatis mutandis apply as if the detention order as aforesaid was a warrant of arrest issued by a Competent Court.(2)If such person fails to comply with such proclamation, 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 render 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, shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.(3)An appeal from any order made by the State Government or, as the case may be, by the authorized officer rejecting application for restoration of attached property shall lie to the court of sessions having jurisdiction over the place where the property in question is situated.(4)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) every offence under sub-section (2) shall be cognizable.

9. Grounds of order of detention to be disclosed to detenu.

(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 three 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.

10. Constitution of Advisory Boards.

(1)The State Government shall 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.

11. 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 10 the grounds on which the order has been made and the representation, if any, made by the "detenue" and where the order has been made by an authorized officer, also the report made by such officer under sub-section (3) of section 3.

12. 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 State Government or from any person called for the purpose through the State Government or from the detenue and if, in any particular case, the Advisory Board considers it essential so to do or if the detenue desires to be heard, after hearing the detenue in person, submit its report to the State Government, within fifty days from the date of detention of the detenu.(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 detenu.(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.(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 Advisory Board.

13. 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 the detenu, the State Government may confirm the detention order and continue the detention of the detenue for a period not exceeding the maximum period prescribed by section 14 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 detenue to be released forthwith.

14. 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 13, shall be one year from the date of detention.

15. Revocation of detention orders.

(1)Without prejudice to the provisions of section 23 of the Rajasthan General Clauses Act, 1955 (Act No. 8 of 1955) a detention order may, at any time for reasons to be recorded in writing, be revoked

or modified by the State Government, notwithstanding that the order has been made by an authorized officer.(2)The expiry or revocation of a detention order (hereinafter in this sub-section referred to as the earlier detention order") shall not bar the making of another detention order (hereinafter in this sub-section referred to as "the subsequent detention order") under section 3 against the same person.Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.

16. Temporary release of person detained.

(1)The State Government may, at any time, for reasons to be recorded in writing, 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 detainee 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 detainee 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 detainee release under sub-section (1) fails to fulfil any of the conditions specified in the direction, for due observance of which a bond was executed by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

17. 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.

18. Matters within the purview of this Act to be dealt with under this Act only

- On and after the commencement of this Act, no order of detention under the National Security Act, 1980 (Central Act No. 65 of 1980) shall be made by the State Government or any officer subordinate to it, in respect of any boot-legger, drug offender, dangerous person, immoral traffic offender, or property grabber in the State on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, in so far as an order under this Act, could be made for detention of such person.Section 3(2)[Noti. No. 36(10) Home-9/ 2011, Pt., dt. 23.10.2015 - Raj. Gaz., Exty., Pt. 1(B), dt. 23.10.2015, p. 391] = 2016 RSCS/II/P. 319/H. 111Whereas having regard to the circumstances prevailing in the jurisdiction of District Magistrate, Jaisalmer, the State Government is satisfied that it is necessary to authorise the District Magistrate, Jaisalmer to exercise the powers under sub-sec. (1) of Sec. 3 of the Rajasthan Prevention of Anti Social Activities Act, 2006 (Act No. 1 of 2008).Now, therefore in exercise of the powers conferred under sub-sec. (2)

of Sec. 3 of the Rajasthan Prevention of Anti-Social Activities Act, 2006 (Act No. 1 of 2008), the State Government hereby authorises the District Magistrate, Jaisalmer to exercise the powers conferred by sub-sec. (1) of Sec. 3 of the said Act for one year. Section 3(2)[Noti. No. 36(3) Home-9/2014, dt. 23.10.2015 - Raj. Gaz., Exty., Pt. 1(B), dt. 23.10.2015, p. 391] = 2016 RSCS/II/P. 320/H. 112