

ANDHRA PRADESH PREVENTIVE DETENTION ACT, 1970

1 of 1970

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Received the assent of the Governor on the 5th March, 1970 and the said assent is hereby first published on the 5th March 1970 in the Andhra Pradesh Gazette. An Act to provide for preventive detention in certain cases in the State and matters connected therewith. Be it enacted by the Legislature of the State of Andhra Pradesh in the Twenty First Year of the Republic of India as follows:

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh Preventive Detention Act, 1970.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force on the 1st January, 1970.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "detention order" means an order made under Section 3;

(b) "Government" means the State Government.

3. Power to make orders detaining certain persons :-

(1) The Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to

(i) the security of the State or the maintenance of public order; or

(ii) the maintenance of supplies and services essential to the community, it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers, namely

(a) District Magistrates;

(b) Additional District Magistrates specially empowered in this behalf by the Government;

(c) the Commissioner of City Police, Hyderabad; may, if satisfied as provided in sub section (1), exercise the power conferred by the said sub section.

(3) When an 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 twelve days after the making thereof unless in the meantime it has been approved by the Government.

4. Execution of detention orders :-

A detention order may be executed in the manner provided for the execution of warrants of arrest under the Code of Criminal

Procedure, 1898.

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 Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention in the State.

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 one or more of the grounds on which the order is made is or are vague or irrelevant, when the other ground or grounds does not or to do not suffer from any such infirmity;

(b) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the officer making the order; or

(c) that the place of detention of such person is outside the said limits.

7. Powers in relation to absconding persons :-

(1) If the Government or any officer specified in sub section (2) of Section 3, as the case may be, 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 officer may

(a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of Sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(b) 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; and if the said person fails to comply with such direction, he shall, 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 reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under Clause (b) of sub section (1) 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 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 Board :-

(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 three persons who are, or have been or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the Government.

(3) The Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

10. Reference to Advisory Board :-

In every case where a detention order has been made under this Act, the Government shall, within thirty days from the date of detention 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 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 material 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 it 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 Government within ten weeks from the date of detention.

(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) 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, and 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 the report of the 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 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 Government shall revoke the detention order and cause the person to be released forthwith.

13. Maximum period of detention :-

(1) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under Section 12 shall be twelve months from the date of detention.

(2) Nothing contained in this section shall effect the power of the Government to revoke or modify the detention order at any earlier

time.

14. Revocation of detention orders :-

(1) Without prejudice to the provisions of Section 15 of the Andhra Pradesh General Clauses Act, 1891 Andhra Pradesh Act 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.

15. 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 be punishable 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 under the Act :-

No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in

pursuance of this Act.

17. Continuance of detention orders made under the Preventive Detention Act, 1950 (Central Act IV of 1950) :-

Every detention order made under Clause (ii) or sub clause (iii) of Clause (a) of sub section (1) of Section 3 of the Preventive Detention Act, 1950 by the Government of Andhra Pradesh or by any officer of that Government mentioned in sub section (2) of that section as in force immediately before the commencement of this Act shall continue in force and shall have effect, as if this Act had been in force on the date of the making of that order and as if that order has been made under this Act.

18. Repeal Ordinance 6 of 1969 :-

The Andhra Pradesh Preventive Detention Ordinance, 1969 is hereby repealed.