

Bengal Touts Act, 1942

05 of 1942

[11 June 1942]

CONTENTS

1. Short title and commencement
2. Amendment of the Legal Practitioners Act, 1879, the Indian Registration Act, 1908, and the Workmens Compensation Act, 1923, in their application to West Bengal
3. Amendment of section 3 of Act XVIII of 1879
4. Amendment of section 13 of Act XVIII of 1879
5. Amendment of section 22 of Act XVIII of 1879
6. Insertion of new Chapter VIA in Act XVIII of 1879
7. Amendment of section 36 of Act XVIII of 1879
8. Amendment of section 2 of Act XVI of 1908
9. Insertion of new Parts XIIIA and XIIIB in Act XVI of 1908
10. Insertion of new section 82 A in Act XVI of 1908
11. Amendment of section 83 of Act XVI of 1908
12. Insertion of new section 31A in Act VIII of 1923
13. XXX XXX XXX
14. XXX XXX XXX
15. XXX XXX XXX
16. XXX XXX XXX
17. XXX XXX XXX
18. XXX XXX XXX
19. [Repealed]

Bengal Touts Act, 1942

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PREAMBLE

An Act for the suppression of touts in Courts and certain offices in Bengal.

Whereas it is expedient to make better provision for regulating the employment of clerks of Legal Practitioners and for the suppression of touts in Courts and certain offices in Bengal and to that end to amend the Legal Practitioners Act, 1879(XVIII of 1879.), the Indian Registration Act, 1908(XVI of 1908.), and the Workmen's

Compensation Act, 1923(VIII of 1923.), in their application to Bengal, and also to amend the Bengal Village Self-Government Act, 1919(Ben. Act V of 1919.), the Bengal Wakf Act, 1934(Ben. Act XIII of 1934.), and the Bengal Agricultural Debtors Act, 1935(Ben. Act VII of 1936.)², in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. For Statement of Objects and Reasons, see the Calcutta Gazette, dated the 2nd December, 1937, Pt. IVA. page 114; the Report of the Select Committee was presented to the Assembly on the 28th November, 1940; for Proceedings of the Assembly, see the Proceedings of the meetings of the Bengal Legislative Assembly held on the 16th February, 1938, 29th August and 28th November, 1940, and the 7th April, 1941; for Proceedings of the Council. see the proceedings of the meetings of the Bengal Legislative Council held on the 28th July and 4th, 5th and 12th August, 1941.

2. The year of the Act was changed from "1935" to "1936" by Section 2 and the First Schedule to the West Bengal Repealing and Amending Act, 1948 (West Ben. Act VII of 1948).

1. Short title and commencement :-

(1) This Act may be called the Bengal Touts Act, 1942.

(2) It shall come into force, in whole or in part, on such date as the ¹[State] Government may, by notification² in the Official Gazette, appoint, and for this purpose different dates may be appointed for different provisions of this Act.

1. This word was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

2. This Act came into force on the first day of November, 1943, vide notification No. 3436J., dated the 18th September, 1943, published in the Calcutta Gazette, dated the 23rd September, 1943. part I, page 1454.

2. Amendment of the Legal Practitioners Act, 1879, the Indian Registration Act, 1908, and the Workmens Compensation Act, 1923, in their application to West Bengal :-

The Legal Practitioners Act, 1879, the Indian Registration Act, 1908, and the Workmens Compensation Act, 1923, shall, in their application to ¹[West Bengal], be amended in the manner provided in this Act.

1. The words within square brackets were substituted for the word "Bengal" by para. (2) of Art. 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

3. Amendment of section 3 of Act XVIII of 1879 :-

After clause (b) in the definition of "tout" in section 3 of the Legal Practitioners Act, 1879, the following word and clause shall be added, namely:-

"or

(c) who is declared to be deemed to be a tout for the purposes of this Act by rules made by the High Court or the Chief Controlling Revenue-Authority, as the case may be, under section 31 A."

4. Amendment of section 13 of Act XVIII of 1879 :-

After clause (e) of section 13 of the Legal Practitioners Act, 1879, the following clause shall be inserted, namely:-

"(ee) who knowing that a person has not a licence under section 31A employs such person as a clerk, or".

5. Amendment of section 22 of Act XVIII of 1879 :-

After clause (d) of section 22 of the Legal Practitioners Act. 1879, the following clause shall be inserted, namely:-

"(dd) who knowing that a person has not a licence under section 31A employs such person as a clerk, or".

6. Insertion of new Chapter VIA in Act XVIII of 1879 :-

After Chapter VI of the Legal Practitioners Act, 1879, the following chapter shall be inserted, namely:-

"CHAPTER VIA

Of clerks of Advocates, Vakils, Attorneys, Pleaders, Muktears and Revenue-agents.

31 A. Power to make rules as to employment, etc.. of clerks of Advocates, Vakils, etc.. and of Revenue-agents.

(1) The High Court may. from time to time, make rules¹ consistent with this Act as to the following matters, namely:-

(a) the employment of clerks by Advocates, Vakils, Attorneys. Pleaders and Muktears;

(b) the manner in which and the terms subject to which such clerks may be granted licences:

(c) the fees (if any) to be paid for such licences;

(d) the conditions under which persons acting as clerks of Advocates, Vakils, Attorneys. Pleaders and Muktears without licences shall be deemed to be touts for the purposes of this Act.

(2) The Chief Controlling Revenue-Authority may, from time to time, make rules² consistent with this Act relating to the matters specified in sub-section (1) in regard to clerks of Revenue-agents.

(3) All rules made under this section shall be submitted to the³[State] Government for approval, and, after they have been approved, they shall be published in the Official Gazette and on publication shall have effect as if enacted in this Act."

1. For rules made under this sub-section, see notification No. 3437J.. dated the 18th September. 1943. published in the Calcutta Gazette, dated the 23rd September, 1943. part I. page 1454.

2. For rules made under this sub-section, see notification No. 3438J.. dated the 18th September. 1943. published in the Calcutta Gazette. dated the 23rd September, 1943, part I.

3. This word was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

7. Amendment of section 36 of Act XVIII of 1879 :-

After sub-section (6) of section 36 of the Legal Practitioners Act, 1879, the following sub-sections shall be added, namely:-

"(7) Every person who having been excluded from the precincts of a Court under sub-section (4) enters or is found within the precincts of any Court without a written permission from the presiding officer of the Court shall be deemed to be acting as a tout within the meaning of sub-section (6):

Provided that this sub-section shall not apply where such person is a party to any case in the Court or has been directed to appear by any process of the Court.

(8) Any presiding officer of a Court may, by an order in writing, direct any person named in the order to arrest any such tout found within the precincts of the Court. Such tout may be arrested accordingly and shall be forthwith produced before the officer.

If the tout admits his offence the provisions of sections 480 and 481 of the Code of Criminal Procedure. 1898(Act V of 1898.), shall be applicable, so far as may be, to his detention, trial and punishment.

If the tout does not admit his offence the provisions of section 482 of the said Code shall be similarly applicable to his detention, trial

and punishment."

8. Amendment of section 2 of Act XVI of 1908 :-

In section 2 of the Indian Registration Act. 1908.-

(1) the word "and" at the end of clause (9) shall be omitted; and

(2) after clause (10) the following word and clause shall be added, namely:-

"and

(11) tout means a person-

(a) who habitually frequents the precincts of a registration office, without a licence granted to him under the rules made under section 80G, for the purpose of obtaining employment for himself or for any other person in connection with any registration business; or

(b) who is declared to be deemed to be a tout for the purposes of this Act by rules made under section 80G;".

9. Insertion of new Parts XIIIIA and XIIIIB in Act XVI of 1908 :-

After Part XIII of the Indian Registration Act, 1908, the following Parts shall be inserted, namely:-

"PART XIIIIA

Of Touts.

80A. Powers to frame and publish lists of touts.

(1) Every Registrar of a district as regards his own office and the offices subordinate thereto and every Subdivisional magistrate as regards the registration offices within his own jurisdiction may frame and publish lists of persons proved to his satisfaction or to the satisfaction of any Sub-Registrar as provided in section 80B, by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

(2) No persons name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(3) Where the name of any person is included in a list framed and published by a Subdivisional magistrate under this section, such person may, within thirty days of the publication of the list in which his name first appears, apply in writing to the Registrar of the district for the removal of his name from such list, and the orders of the Registrar, passed after such inquiry (if any) as he considers necessary, on such application shall be final.

80B. Inquiry by a Sub-Registrar regarding suspected touts.

Any Registrar of a district or Subdivisional magistrate may send to any Sub-Registrar within the jurisdiction of such authority the name of any person alleged or suspected to be a tout, and request the Sub-Registrar to hold an inquiry in regard to such person; and the Sub-Registrar shall thereupon hold an inquiry into the conduct of that person and, after giving him an opportunity of showing cause as provided in sub-section (2) of section 80A, shall report to the authority who has made the request whether the person has been proved to the satisfaction of the Sub-Registrar to be a tout; and that authority may include the name of any person who has been so proved to be a tout in the list of touts framed and published by him under sub-section (1) of section 80A:

Provided that such authority shall hear any such person who, before his name has been so included, appears before him and desires to be heard.

80C. Hanging up of lists of touts in registration offices.

A Copy of every such list shall be kept hung up in every registration office to which the same relates.

80D. Exclusion of touts from precincts of registration offices.

A registering officer may, by general or special order, exclude from the precincts of his registration office any person whose name is included in any such list.

80E. Presumption as to touts found within precincts of registration offices.

Every person who having been excluded from the precincts of a registration office under section SOD is found within the precincts of any registration office without written permission from the registering officer shall be deemed to be acting as a tout for the purposes of section 82A:

Provided that this section shall not apply where such person is a party to a document intended for registration at such office or has been directed to appear by any process of the registering officer.

80F. Arrest and trial of touts.

(1) Any registering officer may, by an order in writing, direct any person named in the order to arrest any such tout found within the precincts of the registration office. Such tout may be arrested accordingly and shall be forthwith produced before the registering officer.

(2) If the tout admit his offence the provisions of sections 480 and 481 of the Code of Criminal Procedure, 1898(Act V of 1898.), shall be applicable, so far as may be, to his detention, trial and punishment.

If the tout does not admit his offence the provisions of section 482 of the said Code shall be similarly applicable to his detention, trial and punishment.

(3) A registering officer shall be deemed to be a Civil Court for the purposes of sections 480, 481 and 482 of the said Code.

PART XIII B

Of Deed-writers.

80G. Power to Inspector-General to make rules relating to deed-writers.

(1) The Inspector-General shall have power, from time to time, to make rules consistent with this Act-

(a) prescribing the manner in which and the terms subject to which persons who write documents, outside the precincts of registration office, or who frequent the precincts of registration offices, for the purpose of writing documents, may be granted licences;

(b) prescribing the fees (if any) to be paid for such licences; and

(c) declaring the conditions under which persons who write documents outside the precincts of registration offices without licences shall be deemed to be touts for the purposes of this Act.

10. Insertion of new section 82 A in Act XVI of 1908 :-

After section 82 of the Indian Registration Act. 1908, the following section shall be inserted, namely:-

" 82A. Penalty.-- Whoever acts as a tout whilst his name is included in a list of touts framed and published under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

11. Amendment of section 83 of Act XVI of 1908 :-

In sub-section (2) of section 83 of the Indian Registration Act. 1908, for the word "Offences", the words, figure and letter "Save as provided in section 80F, offences" shall be substituted.

12. Insertion of new section 31A in Act VIII of 1923 :-

After section 31 of the Workmens Compensation Act, 1923, the following section shall be inserted, namely:-

31 A. "Application of section 36 of Act XVIII of 1879 to touts in office of the Commissioner.

(1) The provisions of section 36 of the Legal Practitioners Act,

1879(XVIII of 1879.). shall, subject to the provisions of this section, be applicable, so far as may be. to the framing and publication of a list of touts, to the exclusion of touts included in the list from the precincts of the court of the Commissioner and to the arrest, detention, trial and punishment of such touts.

(2) A Commissioner shall, for the purposes of the said section 36, be deemed to be an authority referred to in sub-section (1) of that section.

(3) For the purposes of this section tout means-

(a) a tout as defined in clause (a) of section 3 of the Legal Practitioners Act, 1879; or

(b) a person who habitually frequents the precincts of the court of a Commissioner-

(i) for the purpose of procuring work as an agent under section 24, or

(ii) otherwise than as a party to or a witness in any proceedings before the Commissioner or as a bona fide agent appointed under section 24."

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14. XXX XXX XXX :-

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17. XXX XXX XXX :-

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18. XXX XXX XXX :-

XXX XXX XXX

19. [Repealed] :-

[Repealed by section 3 and the Second Schedule to the West Bengal Repealing and Amending Act. 1949 (West Ben. Act XIX of 1949).]