

Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005

14 of 2006

[21 March 2006]

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An Act to provide for more effective prevention of certain unlawful activities of individuals and organizations and matters connected thereto. Be it enacted by the Chhattisgarh Legislature in fifty-sixth year of Republic of India as follows :--

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005. (2) It extend to whole of Chhattisgrh. (3) It shall come into force from the date of its publication in the Official Gazette.

2. Definitions :-

In this Act, unless the context otherwise, requires, -- (a) "Advisory Board" means the Board constituted under section 5; (b) "Organization" means any combination, body or group of persons whether known by any distinctive name or not and whether registered under any relevant law or not any whether governed by any written constitution or not; (c) "Government" means the State Government; (d) "Notification" means notification published in the Chhattisgarh Gazette and the words notified" shall be construed accordingly; (e) "Unlawful Activity" in relation to any individual or organization means any action taken by such individual or organization whether by committing an act or by words either spoken or written or by signs or by visible representation or otherwise; (i) which constitutes a danger or menace to public order, peace and tranquility; or (ii) which interferes or tends to interfere with maintenance of public order; or (iii) which interferes or tends to interfere with the administration of law or its established institutions and personnel; or (iv) which is designed to overawe by criminal force or show of criminal force or otherwise to any public servant including the force of the State Government or the Central Government in the exercise of the lawful powers of such public servant; (v) of indulging in or propagating acts of violence, terrorism, vandalism or other acts generating fear and apprehension in the public or indulging in or encouraging the use of firearms, explosives and other devices or disrupting communications by rail or road; or (vi) of encouraging or preaching disobedience to established law and its institutions; or (vii) of collecting money or goods forcibly to carry out any one or more of the unlawful activities mentioned above; (f) "Unlawful Organization" means any organization which indulges in or has for its object, abets or assists or gives aid, succor or encouragement directly or indirectly, through any medium device or otherwise to any unlawful activity.

3. Declaration Of An Organization As Unlawful :-

(1) If the Government is of the opinion that any organization is, or has become an unlawful organization, it may by notification, declare such organization to be unlawful. (2) Every such notification shall specify the grounds on which it is issued: Provided that nothing in this sub-section shall require the Government to disclose any fact which it considers to be against the public interest to disclose. (3) Where such unlawful organization has a registered

office, the notification shall be served by sending the same through Registered Post or by handing over to any office bearer in such registered office and in case any office bearer is not available or refuses to receive the notification, the same shall be affixed to some conspicuous part of the office; and where the organization does not have a registered office the notification shall be published in any one local newspaper. (4) The notification shall be in force for a period of one year and may be extended for such further period or periods not exceeding one year at a time, as may be deemed necessary after reviewing the position. (5) A notification issued under sub-section (1) may be revoked by the Government where it considers that the need of its continuance has ceased.

4. Representation By Organization :-

Any organization declared to be unlawful may, if it so chooses, send a representation to the Government within fifteen days from the date of publication of the notification or the date of receipt or affixture thereof, in the manner specified in Section 3, whichever is later and such representation shall be placed before the Advisory Board for its consideration. The Organization may if it so desires request for a personal hearing before the Advisory Board.

5. Constitution And Reference To The Advisory Board :-

(1) (a) The State Government shall whenever necessary constitute an Advisory Board for the purpose of this Act. (b) the Advisory Board shall consist of three persons who are or have been or qualified to be appointed as judges of the High Court. The Government shall appoint the members and designate one of them as the Chairman. (2) The Government shall within six weeks from the date of publication of the notification under sub-section (1) of section 3 make a reference to the Advisory Board and place before it a copy of the notification, supporting material and the representation, if any, received from the unlawful organization for its consideration.

6. Procedure Of The Advisory Board :-

(1) The Advisory Board shall after considering the material placed before it and after calling for further information, if necessary from the Government or from any office bearer or members of the organization concerned and after giving an opportunity of personal hearing to the authorized office bearer of the organization, shall submit its report to the Government within three months from the date of receipt of reference from the Government. (2) Where the

organization seeks personal hearing an intimation specifying the date and time of hearing shall be sent to the address indicated in the representation of the organization. The concerned organization shall not be entitled to appear through a lawyer or any person other than an authorized office bearer. (3) The report of the Advisory Board shall specify in a separate part thereof its opinion as to whether or not there was sufficient cause for the issuance of the notification in respect of the organization concerned.

7. 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 issuance of the notification declaring the concerned organization as unlawful the Government may confirm the notification and continue the same for such period as it thinks fit, subject to the provisions of sub-section (4) of section 3. (2) In any case where the Advisory Board has reported that there is, in its opinion no sufficient cause for the issuance of a notification as aforesaid the Government shall revoke the notification forthwith.

8. Penalties :-

(1) Whoever is a member of an unlawful organization or takes part in meetings or activities of any such organization or contributes or receives or solicits any contribution for the purpose of any such organization shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. (2) Whoever not being a member of an unlawful organization in any manner contributes or receives or solicits any contribution or aid for such organization or harbours any member of such organization be punished with imprisonment for a term which may extend to two years and shall also be liable to fine. (3) Whoever manages or assists in the management of an unlawful organization or promotes or assists in promoting a meeting of any such organization or any member thereof, or in any way indulges in any unlawful activity of such organization in any manner or through whatever medium or device shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. (4) No police officer shall investigate any crime under sub-section (1) and (2) of this section, until the Superintendent of Police of the District concerned has not granted him a clear permission thereof. (5) Whoever commits or abets or attempts to commit or plans to commit any unlawful activity in any specified area shall be punished with imprisonment for a term which may extend to seven years and

also be liable to fine.

9. Powers To Notify And Take Possession Of Places Used For The Purpose Of Unlawful Activities :-

(1) The District Magistrate may notify any place which in his opinion is used for the activities of an unlawful organization. Explanation.-- For the purpose of this section, place includes a house or building or part thereof or a tent or a vessel. (2) When any place is notified under sub-section (1) the District Magistrate or any officer authorized in this behalf in writing by him may take possession of the notified place and evict there-from any person found therein, and the District Magistrate shall forthwith make a report of the taking of possession to the Government: Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be provided for their withdrawal with least possible inconvenience. (3) A notified place whereof possession is taken under sub-section (2) shall remain in the possession of the Government as long as the notification under section 3 in respect of such unlawful organization remain in force or for such earlier period as the Government decides.

10. Movable Property Found In The Notification :-

(1) The District Magistrate or the officer authorized by him while taking possession of notified place shall also take possession of movable property including money, securities or other assets found therein and shall make a list thereof in the presence of two respectable witnesses (2) If in the opinion of the District Magistrate any article specified in the list is or may be used for or in aid of the purposes of the unlawful organization he may proceed, subject to the provisions hereinafter contained in his section, to order such articles to be forfeited to the Government. (3) All other articles specified in the list shall be delivered to the person whom the District Magistrate considers to be entitled to possession thereof and if no such person is found entitled thereto, it shall be disposed of in such manner as he may direct. (4) The District Magistrate shall publish a notice in two local newspapers one of which is in Hindi language and shall also affix a copy of such notice on the conspicuous part of the place where from such property was taken possession of specifying the articles which are proposed to be forfeited and calling upon any person claiming; that any article, is not liable for forfeiture to submit in writing within fifteen days from the date of publication of notice any representation he desires to make against forfeiture of the article. (5) The District Magistrate

shall consider the representation and pass such orders as he deems fit. If the decision is to forfeit the article he shall give reasons therefor. (6) Against any order of forfeiture passed under subsection (5) the person who made the representation may file an appeal to the Government within thirty days from the date of receipt of the order. The Government may pass such orders thereon as it deems fit after giving an opportunity to the appellant. Such order of the Government shall be final. (7) The Government may, in its discretion at any time, suo-moto call for and examine the records of any order passed by the District Magistrate under subsection (5) for the purpose of satisfying itself as to the legality, correctness or propriety thereof and pass any order with reference thereto as it may deem fit. (8) If the article seized is livestock or is of a perishable nature, the District Magistrate, may if he thinks it expedient order the immediate sale thereof and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of the other articles.

11. Powers To Forfeit Funds Of An Unlawful Organization :-

(1) Where the Government is satisfied, after such enquiry as it may think fit, that any moneys, securities or other assets are being used or intended to be used for the purpose of an unlawful organization the Government may, by order in writing, declare such moneys, securities or other assets to whomsoever they belong to be forfeited to Government. (2) A copy of an order under sub-section (1) may be served on the person having custody of the moneys, securities or other assets and on the service of such copy such person shall pay or deliver the moneys, securities or other assets to the officer as specified in the order of the Government: Provided that in the case of moneys or securities, a copy of the order may be endorsed for execution to such officers as the Government may select and such officer shall have power to enter upon and search for such moneys and securities in any premises where they may reasonably be suspected to be, and to seize the same. (3) Before any order of forfeiture is made under sub-section (1) the Government shall give a written notice to the person, if any in whose custody the moneys, securities or other assets are found of its intention to forfeit and such person may make a representation to the Government against the proposed order of forfeiture within fifteen days of the receipt of the notice. The Government shall after considering the representation, if any, received from the affected person pass such orders as it deems fit. (4) Where the Government

has reason to believe that any person has custody of any moneys, securities or other assets which are being used or are intended to be used for the purpose of an unlawful organization, the Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Government. A copy of such order shall be served upon the person to whom it is directed. (5) The Government may endorse a copy of an order under sub-section (4) for investigation to any officer it may select, and such copy shall be deemed to be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person or any officer, agent or servant or such person, search for moneys and securities and make inquiries from such person touching the origin of and dealings in any moneys, securities or other assets which the investigating officer may suspect are being used or are intended to be used for the purpose of an unlawful organization. (6) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1973 (No. 2 of 1974) for the service of summons, or where the person to be served is a Corporation, Company, Bank or Organization of Persons, it may be served on any Secretary, Director or other officer or person concerned with the management thereof, or by leaving it with or sending it by post addressed to the Corporation, Company, Bank or Organization at its registered office, or where there is no registered office, at the place where it carries on business. Where the Government is satisfied that in the circumstances it is not reasonably practicable to follow such procedure, it may cause the order to be published in any local newspaper. (7) Where an order of forfeiture is made under sub-section (1) in respect of any moneys, securities or other assets in respect of which a prohibitory order has been made under sub-section (4), such order of forfeiture shall have effect from the date of the prohibitory orders, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the money, securities, or other assets forfeited, to the officer specified in the order of the Government. (8) Where any person liable under this section to pay or deliver any moneys, securities or other assets upon the order of the Government, refuses, or fails to comply with any direction of the Government in this behalf, the Government may recover from such person, as arrears of land revenue or as a fine, the amount of such moneys or other financial assets or the

market value of such securities. (9) In this section, security includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to payment of money and the market value of any security means the value as fixed by any officer or person deputed by the Government in this behalf. (10) Except so far as is necessary for the purpose of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (5) shall be divulged by any officer of Government without the consent of the Government. (11) The Government may by order, delegate its powers under this section to any officer not below the rank of a District Magistrate and likewise withdraw the same. (12) The Government may, in its discretion at any time, either suo-moto or on an application made by the person who made the representation, call for and examine the records of any order passed by the District Magistrate under sub-section (11) for the purpose of satisfying itself as to the legality, correctness or propriety thereof and pass such orders in reference thereto as it may deem fit: Provided that no order under sub-section shall be passed by the Government unless the party likely to be affected thereby has had an opportunity of making a representation.

12. Revision :-

(1) An application for revision shall lie to the High Court against any order passed by the Government under sub-section (1) of section 7 as confirming the notification issued under sub-section (1) of section 3 or against any order passed under sub-section (4) of section 3 extending the period of notification or against any order of forfeiture under sub-section (1) of section 11 questioning the legality, correctness or propriety thereof. (2) A revision petition under this section shall be filed within a period of thirty days from the date of receipt of the order of the Government referred to in sub-section (1).

13. Trespass Upon Notified Places :-

Any person who enters or remains upon a notified place without the permission of the District Magistrate or of an officer authorized in this behalf by the District Magistrate shall be deemed to commit an offence of criminal trespass.

14. Bar Of Jurisdiction :-

Save as otherwise expressly provided in this Act and without prejudice to the jurisdiction and powers of the Supreme Court and

High Court under the Constitution of India, no proceedings taken under this Act by the Government or the District Magistrate or any officer authorized in this behalf by the Government or by the District Magistrate shall be called in question in any court in any suit or proceeding or application or by way of appeal or revision and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any powers conferred by or under this Act.

15. Protection Of Action Taken In Good-Faith :-

No civil or criminal proceeding shall be instituted against any person for anything done in good-faith or intended to be done under this Act or against the Government or any person acting on behalf of or by the authority of the Government for any loss or damage caused to or in respect of any property, whereof possession has been taken by the Government under this Act.

16. Cognizance And Investigation Of Offences :-

(1) All offences under this Act shall be cognizable and non-bailable. (2) All offences under this Act shall be investigated by the Police Officer not below the rank of Inspector. (3) Offences under this Act committed or abetted or attempted or designed to be committed shall only be registered under the written permission by the Superintendent of Police of that district. (4) No court shall take cognizance of any such offence except on the report of District Magistrate of that area or district.

17. Constitution Of Organization :-

An organization shall not be deemed to have ceased to exist by reasons only of any formal act of dissolution or change of title by any oral or written declaration but shall be deemed to exist so long as such organization or any member thereof is actually engaged in or continuing in any manner any unlawful activity.

18. Power To Make Rules :-

(1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act. (2) All rules made under this Act shall be laid on the table of the Legislative Assembly.