

EAST PUNJAB (EXCHANGE OF PRISONERS) ACT, 1948

13 of 1948

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EAST PUNJAB (EXCHANGE OF PRISONERS) ACT, 1948

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An Act to provide for the Exchange of Prisoners with Punjab in Pakistan. It is hereby enacted as follows

PART 1

Preliminary and Interpretation

1. Short title, and extent :-

(1) This Act may be called the East Punjab (Exchange of Prisoners) Act, 1948.

(2) It shall extend to the whole of the Union territory of Delhi.

2. Interpretation :-

In this Act unless there is anything repugnant in the subject or context-

(a) the expression "prison" includes a central, district or subsidiary jail, a judicial lock-up, and every place which is used as a place of detention for persons who have been arrested or detained under any law for the time being in force;

(b) the expression "prisoner" includes every person who is detained in a prison by order of a competent authority not being a civil Court;

(c)*****

(d) the expression "repatriated prisoner" means a prisoner who being in custody in prison or other place of detention in Pakistan has been conveyed and delivered by a duly authorised official to an official of the Union territory of Delhi.

3. . :-

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PART 2

Repatriation of Prisoners

5. Custody and removal of repatriated prisoners :-

The Chief Commissioner may by general or special order, specify the place at which and, either by name or designation, the official by whom, custody of a repatriated prisoner, together with any article or records which may have been sent along with him, shall be received and the prison to which he is to be removed, and the officer in charge of such prison shall thereupon receive such prisoner and any article or records which may be produced alongwith him.

6. Convicted prisoners :-

The officer in charge of the prison shall detain in custody a repatriated prisoner, who, before his repatriation, was a convict

undergoing a sentence in a prison,

(a) according to the tenor of the warrant, writ, or order of commitment to prison, if any, relating to such prisoner, or

(b) failing such warrant, writ or order as aforesaid in accordance with the order of the Chief Commissioner.

7. Prisoners undergoing trial before repatriation :-

(1) The Chief Commissioner may direct any court, other than the High Court, to enquire into or try any case which may have been pending against a repatriated prisoner immediately before his repatriation: Provided that

(a) the offence charged against such prisoner is also an offence under the law in force in the Union territory of Delhi; and

(b) such court would have been competent to try such offence if it had been committed within the local limits of its jurisdiction.

(2) On the making of an order under sub-section (1) the Court specified in the order shall proceed to enquire into or try such case according to law, as if the offence to which it relates had been committed within the local limits of its jurisdiction, and all the provisions of the Code of Criminal Procedure and all other laws in force in Delhi shall, so far as may be apply to such proceedings.

(3) In any proceedings under sub-section (2), all evidence both oral and documentary, which has been duly received in the proceedings against the repatriated prisoner held prior to his repatriation on the copies of such evidence certified under section 76 of the Indian Evidence Act, 1872 may be treated as evidence in the case for all purpose subject to the provisions of the Indian Evidence Act, 1872.

8. Prisoners repatriated while in police custody :-

(1) The Chief Commissioner may in respect of any repatriated prisoner, who, immediately before repatriation, was held under arrest or detention in police custody during or after completion of a police investigation, specify a Magistrate of the first class who shall have and exercise jurisdiction.

(2) Every repatriated prisoner in respect of whom an order has been made under subsection (1) shall be produced without delay before the Magistrate specified in the order and such Magistrate may take cognizance of any offence that such repatriated prisoner

may be reported by a police officer to have committed, and may grant him bail.

(3) Where the repatriation was effected before completion of the police investigation, or the Magistrate is of the opinion that the evidence is deficient, the repatriated prisoner shall be released upon his entering into a bond, with or without sureties, as the Magistrate may direct, to appear if and when so required, and in the meantime, the Magistrate may order such further enquiry into the substance of the allegations as he thinks fit.

(4) In every case falling under sub-section (3), the Magistrate may, if he is satisfied at any stage that there is no prospect of securing sufficient evidence to justify commencement of proceedings against the repatriated prisoner, direct that such prisoner be discharged from his bond.

9. Delegation of powers :-

The Chief Commissioner may, by notification delegate all or any of his under sections 5, 6, 7 and 8 to any public servant, either by name or by designation.

10. Power of Chief Commissioner in relation to prisoners detained for reasons of security :-

In relation to any repatriated prisoner whose detention immediately before his repatriation had been ordered under any law authorising preventive detention for reasons connected with public order, the Chief Commissioner shall have the same power in respect of extension or reduction of the term of detention as it possesses in relation to person detained under section 3 of the Punjab Public Safety Act, 1947 (Punjab Act 2 of 1947) as in force in the Union territory of Delhi.

11. Jurisdiction of the High Court :-

The High Court of Judicature of the State of Punjab shall have, in relation to a repatriated prisoner, the same jurisdiction which it has in relation to a person who has been arrested or detained within the limits of its appellate jurisdiction, in the same circumstances in which such prisoner was arrested or detained within the limits of its appellate jurisdiction, in the same circumstances in which such prisoner was arrested or detained immediately before his repatriation.

12. Power of Chief Commissioner to suspend, remit or commute sentences :-

The Chief Commissioner shall have the same power to suspend, remit or commute a sentence of punishment awarded to a repatriated prisoner, whether before or after his repatriation as he possesses in relation to persons who have been sentenced in the Union territory of Delhi for offences committed within the Union territory of Delhi.

PART 4

General

13. Lawfulness of custody and retaking upon escape :-

It shall be lawful for any persons to whom a warrant or order under section 5 or section 6 is directed to receive, hold in custody, convey and deliver the repatriated prisoner, named in the warrant or order as directed therein and if any such prisoner escapes out of any custody to which he may be delivered in pursuance of any warrant, he was retaken as a person accused or convicted of an offence against the law of the Union territory of Delhi may be retaken upon as escape.

14. Operation of ordinance :-

The provision of this Act shall have force and operation notwithstanding anything contrary or repugnant thereto in any other law for the time being in force.

15. Power to make rules :-

The Chief Commissioner may make rules to carry out the purposes of this Act.