

**Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran
Adhiniyam, 1982**

36 of 1982

[29 October 1982]

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Madhya Pradesh Vinirdishta Bhrashta Acharan Nivaran Adhiniyam, 1982

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An Act to provide for punishment of specific corrupt practices resorted to by the persons serving in connection with the affairs of the State or of public undertakings or local authorities, co-operative societies or other institutions or organisations aided by State Government and by some other persons in their dealings with the State Government and aforesaid bodies and for other miscellaneous matters connected therewith. Be it enacted by the Madhya Pradesh Legislature in the Thirty-third Year of the Republic of India as follows :- 1. Received the assent of the Governor on the 29th October, 1982, assent first published in the Madhya Pradesh Rajpatra (Asadharan), dated the 30th October, 1982.

CHAPTER 1 PRELIMINARY

1. Short Title And Extent :-

(1) This Act may be called the Madhya Pradesh Vinirdishta Bhrashta

Acharan Nivaran Adhiniyam, 1982.

(2) It extends to the whole of Madhya Pradesh.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "local authority" means-

(i) a Municipal Corporation constituted under the Madhya Pradesh Municipal Corporation Act, 1956 (No.23 of 1956);

(ii) a Municipal Council constituted under the Madhya Pradesh Municipalities Act, 1961 (No.37 of 1961);

(iii) a Panchayat constituted under the Madhya Pradesh Panchayat Adhiniyam, 1981 (No.35 of 1981);

(iv) a Mandi Samiti constituted under the Madhya Pradesh Krishi Upaj Mandi Adhiniyam, 1972 (No.24 of 1973);

(b) "Officer" means a person serving in connection with the affairs of the State, public undertaking, local authority, co-operative society or any other institution or organisation aided by the State Government;

(c) "public undertaking" means a Government company within the meaning of Section 617 of the Companies Act, 1956 (No. 1 of 1956), and includes a Corporation or other statutory body, by whatever name called, in each case owned or controlled by the State Government.

CHAPTER 2

OFFENCES RELATING TO WORK

3. Definitions :-

In this Chapter, unless the context otherwise requires,-

(a) "construction" means all activities pertaining to the construction of a work and includes excavation, filling, levelling and other allied activities;

(b) "contractor" in relation to a work means a person who undertakes to execute the work under a works department, in pursuance of a contract and includes, where the context so requires, a sub-contractor and all other agencies and persons employed by him or working under him or under his control for the execution of such work and the expression "works contract" shall be construed accordingly;

(c) "officer in charge" means an officer in relation to a work under a works contract who is primarily and directly responsible on the work site to see that the work or specific part of the work is duly

executed in accordance with the terms, conditions and specifications of the works contract and the instructions, directions or work order issued by the supervisory officers or by the works department, from time to time;

(d) "officer of the works department" means the officer, whatever be the designation, employed in the works department and concerned with the survey, construction, repairs, maintenance, supervision, planning, drawing, designing, purchase, supply or storage of goods, mechanically propelled or electrically operated vehicles of all descriptions, plants, machinery, tools, spares or all other materials, or equipments and includes an officer or official responsible to make payment of bills and advances, in relation to the work;

(e) "supervisory officer" means an officer whose duty it is to supervise the work as per instructions contained in the Manual applicable to the works department or contained in any order or direction issued by the works department, from time to time;

(f) "work" means any work relating to survey, construction, repairs or maintenance of any building, superstructure, dam, weir, canal, reservoir, tank, lake, road, bridge, culvert, well including tube-well, factory, workshop, water supply system, electric installation system or any other work which the State Government may by notification specify in this behalf and includes surveying planning, drawing, designing, purchase, supply or storage of goods, mechanically propelled or electrically operated vehicles of all descriptions, plant, machinery, tools, spares or all other materials and equipments relating to the constructions, maintenance or repairs of any of the aforesaid works;

(g) "works department" means a department of the State Government, a public undertaking, a local authority, or a cooperative society registered under the Madhya Pradesh Cooperative Societies Act, 1960 (No. 17 of 1961), which gives a works contract or under whose orders, directions or control works contract is entered into or work is done, and shall include an institution or organisation substantially aided by State Government, as the State Government may, by notification, specify.

4. Punishment Of Contractor For Violation Of Contract, Etc.

:-

Whoever, being a contractor of a works contract entered into with a works department, intentionally, knowingly or for corrupt motive

executes the work in material violation of the terms of the contract or in flagrant disregard of the standards, specifications, orders or directions given by the works department, or its officers, so as to adversely affect the quality, workmanship, strength or life of the work or part of it, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

5. Punishment Of Officer-In-Charge For Lack Of Supervision :-

Whoever, being an officer-in-charge of a work under a works contract, being executed by a contractor or otherwise, intentionally or knowingly,-

- (a) permits or connives at, or
- (b) omits to prevent or to report about, or
- (c) abets for corrupt motive,

the work being done in (i) material violation of the terms of the contract, or (ii) flagrant disregard of the standards, specifications, orders or directions given by the works department or its officers, in either case so as to adversely affect the quality, workmanship, strength or life of the work or part of it, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

6. Punishment For Preparing False Or Fictitious Muster Rolls Or Measurement Books :-

Whoever, being officer-in-charge of a work in connection with the relief work or any other work intentionally or knowingly,-

- (a) prepares a false or fictitious muster roll, or
 - (b) prepares a false or fictitious measurement book, or
 - (c) makes payment for false or fictitious lead or false or fictitious excavation of metal, sand, earth, or
 - (d) incorrectly classifies a strata under excavation for making payment at a higher rate, or
 - (e) pays for no work or inadequate or for fictitious or bogus work, or
 - (f) pays at rates that are grossly inappropriate or makes deliberate over payments, in violation of rules and orders,
- shall be punished with imprisonment of either description which may extend to three years or with fine or both.

7. Punishment For Surreptitious Sale Of Supplied Material

By Contractor :-

Whoever, being a contractor under a works contract, sells or otherwise transfers cement, iron, or any other material supplied by the works department for the work as per specifications, instead of properly utilizing the same in the work or instead of returning the unused or excess material back to the works department, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

8. Punishment For Submitting Manipulated Tenders :-

Whoever, being a tenderer for a work under a works department,-

(a) procures, obtains or attempts to procure or obtain for himself or for any other person work under a works contract by submitting fictitious, competitive tenders in the name of false, or non-existent or bogus person; or

(b) enters into a conspiracy with any other tenderer or tenderers in order to eliminate the competition for the purpose of pushing one of the collusive low-rate tender for acceptance; or

(c) employs or takes active help of a near relative or of any other person in a position to unduly influence the officer having authority to accept the tender,

shall be punished with imprisonment of either description which may extend to three years or with fine or both.

Explanation.-"Near relation" in this section, means son, grandson, father, mother, spouse, brother, sister, brother-in-law, father-in-law and mother-in-law.

9. Punishment To Officer For Accepting Manipulated Tender :-

Whoever, being an officer of a works department, having authority to accept a tender on behalf of a works department,-

(a) abets the commission of an offence under Section 8 by accepting or recommending for acceptance such tender, or

(b) dishonestly manipulates evaluation of tenders with the object of giving benefit to a particular tenderer,

shall be punished with imprisonment of either description which may extend to three years or with fine or both.

10. Punishment For Wrongful Or Unauthorised Disposal Of Property :-

Whoever, being an officer of a works department, dishonestly, wrongfully or fraudulently,-

(a) disposes of or otherwise transfers; or

(b) permits unauthorised use of goods, plant, machinery, tools, spares or other material and equipments from the stores, causing substantial loss to the works department,

shall be punished with imprisonment of either description which may extend to three years or with fine or both.

11. Punishment For Supply Of Sub-Standard Or Lesser Quantity Of Goods, Etc. :-

Whoever, being a contractor for the supply of goods, plants, machinery, tools, spares or other materials or equipments,-

(a) makes misrepresentation in respect to the quantity supplied; or

(b) supplies sub-standard goods, plants, machinery, tools, spares or other materials or equipments which are not of mercantile quality or not in accord with the samples or specifications given in the order of supply, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

Explanation.-In this section, contractor for the supply of goods, plants, machinery, tools, spares or other materials or equipments means any person who under a contract supplies any goods, plants, machinery, tools, spares or other materials or equipments to any works department or its officer to a contractor engaged for a work under a works contract.

12. Punishment Of Officer Of Works Department For Abetting Offences Under Section 11 :-

Whoever, being an officer of a works department, having authority to accept the supplies made by the contractor in pursuance of an order of supply given to him, abets the offence punishable under Section 11 knowingly by accepting the supply of goods, plants, machinery, tools, spares or other materials or equipments shall be punished with imprisonment of either description which may extend to three years or with fine or both.

13. Punishment For Splitting Up Purchase Orders :-

Whoever, being an officer of the works department, with malafide intention resorts to splitting of purchase order in order to enable

him to effect the purchases which would have otherwise been beyond the pale of his financial authority to do so, or in flagrant, breach of the established procedure for the purchase of goods, plants, machinery, tools, spares or other materials or equipments shall be punished with imprisonment of either description which may extend to one year or with fine or both.

CHAPTER 3

OFFENCES CONNECTED WITH FOREST PRODUCE

14. Punishment For Illicit Felling Or Disposal Of Forest Produce :-

Whoever, being an officer primarily and directly in charge for the preservation and maintenance of forest area or disposal of forest produce, having jurisdiction or concern with the forest area, intentionally or knowingly permits, connives, abets, or suffers on account of his omission to supervise, prevent or report the,-

- (i) illegal felling of trees or logs, or
- (ii) illegal girdling or tappings, or
- (iii) theft of wood, timber or bamboos or other forest produce, or
- (iv) illegal quarrying of stones, or
- (v) illegal burning of lime or charcoal from the area,

for commercial purpose shall be punished with imprisonment of either description which shall not be less than one year but which may extend to three years and shall also be liable to fine :

Provided that the Court may, for any special reasons to be recorded in writing impose a sentence of imprisonment of less than one year.

Explanation.- The provisions of this section shall not make liable as an abettor, any person having nistar or any other rights, under any law for the time being in force, or by any order made thereunder to remove or use any forest produce from a forest area.

15. Punishment For Falsification Of Bid-Sheets And Manipulation Of Transit Passes :-

Whoever, being an officer,-

- (i) manipulates bid-sheets in relation to auction of forest produce, or
 - (ii) manipulates issue of fictitious transit passes with a view to give benefit to any person or for causing wrongful loss to the Government department,
- shall be punished with imprisonment of either description which may extend to three years or with fine or both.

CHAPTER 4

OFFENCES RELATING TO CLAIM OR AWARD OR DISPROPORTIONATELY EXCESSIVE COMPENSATION

16. Punishment For False Or Fictitious Claims :-

Whoever, by misrepresenting facts, claims compensation for non-existent or fictitious property or in the name of non-existent or fictitious person or by giving false or fictitious description of the property for grossly exaggerating the value thereof, in a matter relating to the acquisition of such property, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

17. Punishment For Award Of Disproportionately Excessive Compensation :-

Whoever, being an officer empowered under any law or by an order or otherwise directed to assess or award compensation for acquisition of property, dishonestly with a malafide intention,-

(i) assesses or awards compensation which is excessive so as to be grossly disproportionate to the market value of the property so acquired, or in violation of any direction of law for the time being in force, prescribing the mode of calculation of compensation, or

(ii) assesses or awards compensation for the non-existent or fictitious property or to a fictitious person,

shall be punished with imprisonment of either description which may extend to three years or with fine or both.

CHAPTER 5

OFFENCES RELATING TO COLLUSIVE BIDDING AT PUBLIC AUCTION

18. Punishment For Collusive Bidder :-

Whoever, being a bidder at a public auction, enters into a conspiracy with the other bidders, so as to procure a Government licence or other contract, including a licence for a liquor shop, at a significantly low rate, shall be punished with imprisonment of either description for a term which may extend to one year or with fine or both.

19. Punishment For Sale Of Liquor Or Spurious Drug Unfit For Human Consumption :-

Whoever, holding a licence or otherwise manufactures, knowingly

sells or knowingly otherwise delivers to the consumers,-

(a) liquor unfit for human consumption, or

(b) any drug adulterated or misbranded for internal or external use of a human being, shall-

(i) if death is thereby caused, be punished with death or imprisonment for life or with imprisonment of either description which shall not be less than 7 years but which may extend to 10 years; and

(ii) if it causes any other deleterious effect on the health of the consumer, be punished with imprisonment of either description which may extend to 5 years and shall also be liable to fine.

Explanation.-In this section, the expressions used shall have the same meaning as assigned to them in the Madhya Pradesh Excise Act, 1915 (Act No. 2 of 1915) of the Drugs and Cosmetics Act, 1940 (No. 23 of 1940), as the case may be.

CHAPTER 6

OFFENCES RELATING TO REGISTRATION OF BOGUS FIRMS FOR SALES-TAX EVASION ETC.

20. Punishment For Applying For Registration Of Or Use Of Bogus Firm-Name :-

Whoever, applies for the registration of a bogus or non-existent firm, or uses a bogus or non-existent firm name, for the purpose of manipulating, sales-tax evasion for collusive bidding or for submitting collusive tender, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

Explanation.-Bogus firm includes a fictitious firm nominally registered in the name of a relation, friend or servant of a businessman only for showing a separate entity and having some nominal transaction recorded in that name, and having for its objective procurement of business to the real firm of the businessman by submitting tenders at the rates higher or bidding at the rates lower than the rates given or bids made by the real firm so as to make it sure that the real firm of the businessman gets the contract or licence, as the case may be.

1 Substituted by M.P. Act No. 50 of 1984 (w.e.f. 5-7-1984).

21. Punishment For Registering Bogus Firm For Abetting Offence Under Section 20 :-

Whoever, being an officer, intentionally, knowingly or negligently,

without holding proper inquiry registers a bogus firm or permits the use of bogus or non-existent firms name, with the intention to abet the offence under Section 20, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

CHAPTER 7

OFFENCES RELATING TO FICTITIOUS LOAN AND FALSE VERIFICATIONS OF THEIR UTILIZATION

22. Punishment For Advancing Loans, Etc. To Fictitious Persons :-

Whoever, being an officer having authority to sanction or advance loan or subsidy intentionally, knowingly, or for corrupt motive or otherwise, sanctions or advances loan or subsidy,-

- (a) in a fictitious name, or
- (b) to a fictitious or non-existing person, or
- (c) in the name of another person,

and whoever receives actual benefit of such sanction or advance of the loan or of subsidy, shall be punished with imprisonment of the loan or of subsidy, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

22A. Punishment For Delaying Etc. Loan Cases :-

1[Whoever being an officer having the authority to sanction, advance or to disburse any loan, advance or subsidy of the State Government or local authority or a public undertaking, intentionally, knowingly or for corrupt motive,-

- (a) prepares false report or misrepresents any material fact; or
 - (b) takes inordinately more time than what is normally required over the preparation of the papers or processing of the case thereby delaying the sanction of loan or advance or subsidy; or
 - (c) delays or causes to be delayed the sanction or disbursement of loan, advance or subsidy to an extent which is oppressive having regard to the common course of business of the office of the State Government or local authority or a public undertaking, as the case may be,
- shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both].

1 Inserted by M.P. Act No. 37 of 1983 (w.e.f. 1-12-1983).

23. Punishment For False Verification Of Loan Utilisations :-

Whoever, being under a duty to verify and report proper utilisation of a loan or subsidy falsely reports, verifies or testifies to the proper utilisation thereof, with reference to the purpose for which it was sanctioned or advanced, when in fact it was not so utilised fully, or was utilised only partly, or was not utilised at all, in relation to that

purpose, unless it was diverted to some other purpose with the prior sanction of authority which sanctioned or advanced the loan or subsidy, shall be punished with imprisonment of either description which may extend to one year or with fine or both.

CHAPTER 8

Omitted

24. Section 24 :-

25. Section 25 :-

26. Section 26 :-

27. Section 27 :-

28. Section 28 :-

29. Section 29 :-

30. Section 30 :-

31. Section 31 :-

32. Section 32 :-

Chapter : IIIA - OFFENCES RELATING TO ALLOTMENT OF GOVERNMENT LAND ETC.

32A. Definition :-

1[CHAPTER VIII-A

OFFENCES RELATING TO ALLOTMENT OF GOVERNMENT LAND ETC.

In this Chapter, "authority" means any authority constituted or appointed by or under any law made by the State Legislature and for the time being in force.

1 Inserted by M.P. Act No. 37 of 1983 (w.e.f. 1-12-1983).

32B. Punishment For Securing Allotment Of Land By Misrepresenting Facts :-

Whoever, intentionally, knowingly or for corrupt motive, gets land, plot, house or flat allotted by misrepresenting any material fact in order to make himself eligible for such allotment which he would otherwise not have been so entitled in accordance with the rules or instructions made or issued by the State Government or by the authority entrusted with the function of such allotment, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

32C. Punishment For Illegal Allotment Of Land, Houses Or Flats :-

Whoever, being an officer, whether of this State Government or of the authority whose function it is to allot land, plot, house or flat, dishonestly, wrongfully, fraudulently, or for corrupt motive allots land, plot, house or flat in flagrant violation of law or instructions governing or regulating such allotment, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

32D. Punishment For Charge In Layout With Malafide Intention :-

Whoever, being an officer, whether of the State Government or of the authority whose function it is to prepare layout or divide land into plots, dishonestly, wrongfully, fraudulently or for corrupt motive changes the layout in such a manner as to confer a distinct benefit to holders of certain plots and corresponding district disadvantage to some other holders of some other plots in the same layout, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

CHAPTER 9

OFFENCES RELATING TO TAMPERING WITH THE PUBLIC DISTRIBUTION SYSTEM

33. Tampering With The System By Licensed Dealer :-

Whoever, being a dealer licensed under any order issued under Section 3 of the Essential Commodities Act, 1955 (No. 10 of 1955), instead of supplying the essential commodity, declared by or under the said Act, as the State Government may, by notification specify for the purpose of this chapter to the public concerned in accordance with the scheme of the public distribution system intentionally, knowingly or for corrupt motives transfers such essential commodity to other channels or maintains false or fictitious account for the fair distribution of the same, shall be punished with imprisonment of either description which may extend to three years or with fine or both.

34. Abatement Of Offence Under Section 33 By An Officer :-

Whoever, being an officer, directly or primarily incharge of supervising the proper working of public distribution system, knowingly omits to check and report, connives or abets the commission of the offence punishable under Section 33 shall be punished with imprisonment of either description which may extend to three years or with fine or both

CHAPTER 10

OFFENCE OF MANIPULATION OF TRANSFERS AND UNAUTHORISED ABSENCE OF OFFICERS

35. Punishment For Manipulation Of Transfers :-

Whoever, being in the service of the State or of a public undertaking secures or attempts to secure, his transfer or cancellation of transfer or posting or promotion, otherwise than by representing or approaching through the normal official or prescribed channels, or before he has unsuccessfully exhausted all such channels, barring exceptionally hard and emergent cases requiring immediate attention or relief, shall be punished with imprisonment of either description which may extend to six months or with fine or both.

Explanation.-No aid rendered in good faith in an exceptionally hard and emergent case requiring immediate attention and relief to a person in the service of the State or of a public undertaking in the matter of such transfer or cancellation of transfer or posting or promotion shall amount to abatement of the offence under this section, within the meaning of Section 107 of the Indian Penal Code, 1860 (No. 45 of 1860).

36. Punishment For Drawing Salary For The Period Of Unauthorized Absence From Duty :-

Whoever, being an officer intentionally draws, himself or by suppression of facts or otherwise, misrepresenting the facts relating to his absence permits or induces the drawing and disbursing officer to draw and disburse the salary to him for the period of his deliberate unauthorized absence from duty unless the same is regularised by grant of permission or sanction of leave with pay, and thereby cheats the Government shall be punished with imprisonment of either description which may extend to one year or with fine or both.

Chapter : XA - OFFENCES RELATING TO ACQUISITION OF PROPERTY BY ILLEGAL MEANS

36A. Chapter To Have Overriding Effect :-

The provisions of this chapter shall prevail notwithstanding anything contained in the Criminal Law Amendment Ordinance, 1944 (No. XXXVIII of 1944).

1 Inserted by M.P. Act No. 50 of 1984 (w.e.f. 5-7-1984).

36B. Offence Of Acquisition Of Property By Illegal Means :-

(1) Notwithstanding anything contained in clause (e) of sub-section (1) of Section 5 of the Prevention of Corruption Act, 1947 (No. 2 of 1947) whoever, being an

officer, acquires or holds property for which he cannot satisfactorily account for or which is disproportionate to his known sources of income, commits an offence of acquisition of property by illegal means.

(2) Whoever, commits an offence of acquisition of property by illegal means shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall also be liable to fine which may extend to the value of the property in excess of his known sources of income:

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than one year.

36C. Attachment Of Property :-

(1) If the District Magistrate has reason to believe that any officer holds property for which he cannot satisfactorily account for he may make a declaration to that effect and order for attachment of the said property :

Provided that,-

(i) no declaration shall be made; or

(ii) no attachment of the property shall be ordered, without obtaining the concurrence therefor of the Advisory Committee appointed by the State Government for the purpose :

Provided further that no order under this sub-section shall be made without giving the officer the reasonable opportunity of being heard and adducing the documentary evidence and evidence on affidavit in his defence.

(2) On attachment of the property under sub-section (1), the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) shall apply thereto.

(3) Notwithstanding the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974), the District Magistrate may, in lieu of surety, appoint an administrator who shall have all the powers to administer the property as he deems fit, in the best interest of the property

(4) The District Magistrate may provide police help to the Administrator for proper and effective administration of the property.

(5) The expenses incurred on the administration of the property, including on the assistance by the police, shall be a charge on the property.

36D. Release Of Property :-

(1) When the property is attached under Section 36-C, the owner thereof may, within three months of the date of knowledge of attachment, make a representation to the District Magistrate, showing the circumstances and the means by which the property was acquired by him.

(2) If the District Magistrate is satisfied with the representation he may forthwith release the property from attachment and thereupon the property along with means profits after deducting all expenses charged on the property shall vest in the owner thereof.

36E. Reference By District Magistrate To District Judge In Certain Cases :-

(1) If the District Magistrate is not satisfied with the representation made under sub-section (1) of Section 36-D he shall send the matter with his report to the District Judge within the limits of whose jurisdiction the property is situate for deciding whether the property should remain attached.

(2) On receipt of the report from the District Magistrate under sub-section (1), the District Judge shall issue a notice to the person whose property is attached under sub-section (1) of Section 36-C, calling upon him to show cause on a day to be specified in the notice why the property should not remain attached till the date of

the termination of the criminal proceedings.

(3) The District Judge shall also issue notices to all persons represented to him as having, or being likely to claim, any interest or title in the property of the person to whom notice is issued under sub-section (2), calling upon each such person to appear on the same date as that specified in the notice under sub-section (1) and make objection, if he so desires, to the attachment of the property or any portion thereof on the ground that he has an interest in such property or portion thereof.

(4) Any other person claiming an interest in the attached property or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the District Judge at any time before an order is passed under sub-section (1) or sub-section (3) as the case may be, of Section 36-F.

36F. Investigation By District Judge Of Objections To Attachment :-

(1) If no cause is shown and no objections are made under Section 36-F on or before the specified date, the District Judge shall forthwith pass an order to the effect that the property shall remain attached till the termination of the criminal proceedings.

(2) If cause is shown or any objections are made as aforesaid, the District Judge shall proceed to investigate the same, and in so doing, as regards the examination of the parties and in all other respects he shall, subject to the provisions of this Act, follow the procedure and exercise all the powers of a Court in hearing a suit under the Code of Civil Procedure, 1908 (No. V of 1908), and any person making an objection under Section 36-E shall be required to adduce evidence to show that at the date of the attachment he had some interest in the property attached.

(3) After investigation under sub-section (2), the District Judge shall either pass an order to the effect that property shall remain attached till the date of the termination of the criminal proceedings or vary the order of the District Magistrate by releasing a portion of the property from attachment or withdraw the said order.

Explanation.-For the purposes of this section and Section 36-H, the date of the termination of the criminal proceedings shall be deemed to be,-

(a) where such proceedings are taken to the High Court, whether in appeal or revision, the date on which the High Court passes its final order in such appeal or revision; or

(b) where such proceedings are not taken to the High Court, the day immediately following the expiry of sixty days from the date of the last judgment or order of a Criminal Court in the proceedings.

36G. Criminal Courts To Evaluate Property Procured By The Offence :-

(1) Where before judgment is pronounced in any criminal trial for the offence under Section 36-B, it is represented to the Court that an order of attachment of property has been passed under this Act, in connection with such offence, the Court shall, if it is convicting the accused, record a finding as to the amount of money or value of other property procured by the accused by means of the offence.

(2) In any appeal or revisional proceedings against such conviction, the Appellate or Revisional Court shall, unless it sets aside the conviction, either confirm such finding or modify it in such manner as it thinks proper.

(3) In any appeal or revisional proceedings against an order of acquittal passed in a trial such as is referred to in sub-section (1), the Appellate or Revisional Court, if it convicts the accused, shall record a finding such as is referred to in that sub-section.

36H. Disposal Of Attached Property Upon Termination Of Criminal Proceedings :-

(1) Upon the termination of any criminal proceeding for the offence in respect of which any order of attachment of property has been made under this Act or security given in lieu thereof, the District Magistrate shall without delay inform the District Judge, and shall where criminal proceedings have been taken in any Court, furnish the District Judge with a copy of the judgment or order of the trying Court and with copies of the judgments or orders, if any, of the Appellate or Revisional Courts thereon.

(2) Where it is reported to the District Judge under sub-section (1) that cognizance of the alleged offence under Section 36-B has not been taken or where the final judgment or order of the Criminal Courts is one of acquittal, the District Judge shall forthwith withdraw any orders of attachment of property made in connection with the offence, or where security has been given in lieu of such attachment, order such security to be returned.

(3) Where the final judgment or order of the Criminal Courts is one of conviction, the District Judge shall order that from the property of the convicted person attached under this Act or out of the security given in lieu of such attachment, there shall be forfeited to the State such amount or value as is found in the final judgment or order of the Criminal Courts in pursuance of Section 36-G to have been procured by the convicted person by means of the offence together with the costs of attachment as determined by the District Judge; and where the final judgment or order of the Criminal Courts has imposed or upheld a sentence of fine on the said person (whether alone or in conjunction with any other punishment), the District Judge may order, without prejudice to any other mode of recovery, that the said fine shall be recovered from the residue of the said attached property or of the security given in lieu of attachment.

36I. Appeal :-

An appeal shall lie to the High Court against every decision of the Court made under Section 36-F.

36J. Bar Of Jurisdiction Of The Civil Court :-

The order passed or the decision made under this Chapter shall not be appealable except as provided therein and no other Civil Court shall have jurisdiction in respect of any matter which the Court is empowered by or under this chapter to determine and no injunction or interlocutory order interfering with the attachment or confiscation of the property shall be granted by any other Court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

Explanation.-For the purposes of this Chapter, the property acquired or held by,-

(i) husband or wife, as the case may be, of an officer; or

(ii) son or daughter or step son or step daughter of an officer and wholly dependent on him;

other than the property which is acquired or held by any of the aforesaid persons with their own source and without the knowledge of such officer shall be deemed to have been acquired or held by the officer.

CHAPTER 11

MISCELLANEOUS PROVISIONS

37. Proof Of Sanction :-

The sanction for prosecution of a government servant for an offence under this Act, issued under Section 197 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) and purporting to be duly authenticated and sealed, shall be admissible in evidence without formal proof:

Provided that, where the facts constituting the offence do not appear on the face of the sanction, the Court may call the officer authenticating the sanction to give evidence before it.

38. Curability To Technical Defects In The Form Of Sanction :-

Any technical defect in the formal sanction granted under Section 197 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) for the prosecution of a person employed in connection with the affairs of the State shall not vitiate the trial, unless it is proved that it caused substantial prejudice to the accused.

39. Cognizance Of Offences :-

All offences under this Act shall be cognizable:

1[Provided that the Police Officer shall not investigate an offence under this Act except on a direction of the prescribed authority not below the rank of Commissioner of Division on a report admitted by him to such authority :]

2[Provided further that the State Government may, at any time for the purpose of satisfying itself as to the propriety of any order passed by the Commissioner of the Division as prescribed authority either on its own motion or on reference made by the prescribed authority, shall call for and examine the record of any case pending before or disposed by such authority and may pass such order in reference thereto as it thinks fit].

1 Substituted by M.P. Act No. 50 of 1984, (w.e.f. 5-7-1984).

2 Inserted by M.P. Act No. 16 of 1992 (w.e.f. 9-10-1992).

40. Offences To Be Bailable Except Under Chapter Iii And Section 19 :-

An offence under this Act, shall be bailable except offence under Chapter III and Section 19.

41. Offences To Be Triable By A Court Of Sessions :-

A person accused of an offence under this Act shall be committed to the Court of Sessions, and an offence under this Act shall be committed to the Court of Sessions, and an offence under this Act shall be triable exclusively by the Court.

42. Code Of Criminal Procedure To Apply :-

Save as provided in this chapter, the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) shall apply to an offence under this Act:

Provided that if an offence punishable under this Act is also punishable under any other enactment for the time being in force then notwithstanding anything contained in that Act or in the Code of Criminal Procedure, 1973 (No. 2 of 1974) to the contrary the provisions of Sections 39, 40 and 41 of this Act shall apply.

43. Provisions Not To Be Derogatory To Certain Laws :-

The provisions of this Act shall be in addition to and not in derogation of the provisions of the Prevention of Corruption Act, 1947 (No. 2 of 1947), Indian Penal Code, 1860 (No. 45 of 1860), Indian Forest Act, 1927 (No. 27 of 1927), the Madhya Pradesh Excise Act, 1915 (No. 2 of 1915). Essential Commodities Act, 1955 (No. 10 of 1955) or any other law for the time being in force and nothing contained herein shall exempt any person from any proceeding which might apart from the sections under this Act, be instituted against him.

44. Rule Making Power :-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid on the table of the Legislative Assembly.

45. Repeal :-

The Madhya Pradesh Vinirdishta Bhrashtra Acharan Nivaran Adhyadesh, 1982 (No. 15 of 1982) is hereby repealed.