

Himachal Pradesh Prevention Of Beggary Act, 1979

(Act No. 22 Of 1979)

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For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 7th April, 1979, p. 1266.

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An Act to provide for the prevention of begging, removal, detention and custody, trial and punishment of beggar offenders.

Himachal Pradesh Prevention Of Beggary Act, 1979

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:-

1. Short title, extent and commencement.-

(1) This Act may be called the Himachal Pradesh Prevention of Beggary Act, 1979.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. Definitions.-

In this Act, unless the context otherwise requires,-

(a) "alms" means anything such as money, food cooked or un-cooked, grain or clothing or anything of value given gratuitously to a beggar;

(b) "begging" means-

(i) soliciting or receiving alms in. a public place, under any pretence;

(ii) having no visible means of subsistence and wandering about or remaining in public place in such condition or manner as, makes it likely that the person doing so exists by soliciting or receiving alms;

(iii) entering in any private premises for the purpose of soliciting or receiving alms;

(iv) exposing or exhibiting; with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of a human being or of an animal; or

(v) allowing oneself to' be used as an exhibit or exhibiting someone else (e.g. a child or some article, animal, bird, snake, etc.) for the purpose of soliciting or receiving alms; but does not include soliciting or receiving money or food or gifts for a purpose authorised by any law, or authorised in the manner prescribed;

(c) "beggar" means a person who is found begging;

(d) "child" means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years;

(e) "guardian" in relation to a child, includes any person who, in opinion of the competent authority having cognizance of any proceeding in relation to the child, has, for the time being, the actual charge of, or control over that child;

(f) "parent" means the father or the mother of child;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "public place" means and includes any place or precincts thereof to which, for the time being, the public have or are permitted to have an access, whether on payment or otherwise, and includes any public conveyance, a passenger bus and a railway compartment;

(i) "special police officer" means a police officer not below the rank of an Inspector appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act.

3. Removal of a beggar from any place.-

(1) Whenever a person is alleged to be begging and is produced before the Magistrate; the Magistrate shall proceed to inquire into the truth of the information received and, after giving the person an opportunity of adducing evidence, take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such person is found begging, he shall record a declaration that the person is a beggar. The Magistrate shall also determine, after making an enquiry in the manner prescribed, whether the person was born in the State of Himachal Pradesh and domiciled therein and shall include his findings in the declaration.

(2) If in the course of an inquiry made under sub-section (1), it appears to the Magistrate that the person declared a beggar under sub-section (1) is neither born nor domiciled in the State of Himachal Pradesh, the Magistrate, after making such enquiry, if any, as he deems necessary, and if upon such enquiry it appears to him that it is in the interest of the general public that such person should be required to remove himself therefrom and be prohibited from re-entering the same, the Magistrate shall by order in writing communicated to the person in the manner specified therein, require him after a date (to be specified in the order), which shall not be less than seven days from the date of the order, to remove from the place to such place, whether within or without the local limits of his jurisdiction, by such route or routes, and within such time as may be specified in the order and also prohibit him from re-entering the place without the permission in writing of the Magistrate having jurisdiction over such place.

who is declared as a beggar under sub-section (1), is a child, shall be dealt with under the provisions of the East Punjab Children Act, 1949 (39 of 1949), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), or the Children Act, 1960 (60 of 1960), as in force in the areas, which comprised in Himachal Pradesh immediately before the 1st day of November, 1966, as the case may be.

4. Punishment for living on the earnings of a beggar.-

(1) A person over the age of 18 years who knowingly lives, wholly or in part, on the earnings of a beggar shall be punishable on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) In the event of a second or subsequent conviction of an offence under this section a person shall be punishable with imprisonment for a term of not less than three months and with fine which may extend to two thousand rupees:

Provided that in the case of conviction for an offence under this sub-section, for special and adequate reasons to be mentioned in the judgement of the court, a sentence of less than three months' imprisonment may be passed.

(3) Where any person is proved

(a) to be living with or to be habitually in company of, a beggar; or

(b) to have exercised control, direction or influence over the movements of a beggar in such a manner as to show that such person is aiding, abetting or compelling him to be; or

(c) to be acting as a tout on behalf of a beggar; or

(d) to be employing or causing any person to beg; or

(e) to have connived or encouraged the employment of a child, whose custody, charge, or care is with such a person, for begging ; or

(f) to have used another person as an exhibit for the purpose of begging; it shall be presumed, until contrary is proved, that such person is knowingly living on the earnings of a beggar within the meaning of this section.

5. Procuring, inducing, or taking a child or female for the sake of begging.-

(1) Any person over the age of 18 years who-

(a) procures or attempts to induce a child or a female, whether with or without consent, for the purpose of begging; or

(b) induces a child or a female to go from any place, with the intent that such child or female may become a beggar; or

(c) takes or attempts to take a child or female, or causes a child or female to be taken, from one place, to another with a view to his/ her carrying on, or being brought up to carry on beggary; or

(d) causes, or induces a child or a female to carry on beggary;

(3) Whoever:-

(a) fails to comply with an order issued under sub-section (2), within the period specified therein, or whilst an order prohibiting him or her from re-entering a place without permission is in force, re- enters the place without such permission, or

(b) knowingly that any person has, under sub-section (2) been required to remove himself or herself from the place and has not obtained requisite permission to re-enter it, harbours or conceals such person in the place, shall be punishable,-

(i) on first conviction with imprisonment for a term which may extend to three months, or with a fine which may extend to five hundred rupees, or with both; and

(ii) in the event of a second or subsequent conviction with imprisonment for a term not less than three months and with fine which may extend to one thousand rupees; and

(iii) in the case of continuing offence with an additional fine which may extend to twenty rupees for every day after the first offence during which such person has persisted the offence:

Provided that in the case of conviction for an offence under sub-clause (ii) of this sub-section, for special and adequate reasons to be mentioned in the judgment of the court, a sentence of less than three months' imprisonment may be passed.

(4) If in the course of an enquiry made under sub-section (1), it appears to the Magistrate that the person declared a beggar under sub-section (I), is either born or domiciled in the State of Himachal Pradesh or that it would not be in the general public interest to order his removal under sub-section (2), shall, after giving such a person an opportunity of adducing further evidence, as he may deem fit, punish such a beggar,-

(a) on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and

(b) in the event of a second or subsequent conviction with imprisonment for a term of not less than three months and with fine which may extend to one thousand rupees:

Provided that in the case of conviction for an offence under sub-clause (b) of this sub-section, for special and adequate reasons to be mentioned in the judgment of the court, a sentence of less than three months' imprisonment may be passed.

(5) Notwithstanding anything contained in this section, if any person, shall be punishable on first conviction with imprisonment for a term of not less than three months, or with fine which may extend to two thousand rupees, or with both.

(2) In the event of a second or subsequent conviction of an offence under this section a person shall be punishable with rigorous imprisonment for a term of not less than three months and with fine which may extend to two thousand rupees:

Provided that in the case of conviction for an offence under this sub-section, for special and adequate reasons to be mentioned in the judgment of the court a sentence of less than three months imprisonment may be passed.

(3) An offence under this section shall be triable-

(a) in the place from which a child or female is procured, induced to go, taken or caused to be taken or from which an attempt to procure or take such child or female is made; or

(b) in the place to which he/she may have gone as a result of the inducement or to which he/she is taken or caused to be taken or an attempt to take him/her is made.

6. Sentence of imprisonment for non-payment of fine.-

In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment and in every case of an offence punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine, it shall be competent to the court, which sentences such offender, to direct by the sentence that, in default of payment of fine, the offender shall suffer imprisonment for a term not exceeding one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine, which imprisonment shall be in excess of another imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

7. Probation of good conduct and detention in beggar homes.-

(1) (a) A person convicted for the first time of any offence under section 3 may having regard to his age, character, antecedents, and the circumstances in which the offence was committed be released by the court before which he is convicted on probation of good conduct in the manner provided in sub-sections (1) and (2) of section 360 of the Code of Criminal Procedure, 1973 (2 of 1974).

(b) A person convicted for the first time of any offence under section 3 may having regard to his age, character, antecedents and the circumstances in which the offence was committed also be released with admonition in the manner provided in sub-section (3) of section 360 of the Code of Criminal Procedure, 1973 (2 of 1974).

(c) The provisions of sub-sections (4), (5), (6), (7), (8), (9) and (10) of section 360 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to the cases referred to in clauses (a) and (b).

(2) Where a child or a female is convicted of an offence under section 3 and is not released under clause (a) of sub-section (1) on probation of good conduct or under clause (b) of that sub-section with admonition, the court convicting the child or the female may, having regard to the age, character, antecedents of the child or the female, as the case may be, and the circumstances in which the offence was committed, pass in lieu of the sentence of imprisonment or fine, a sentence of detention in a beggar home.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force, no person convicted under section 4 or section 5 shall be released on probation or with admonition.

8. Security of good behaviour from habitual offenders.-

(1) When a court convicting a person of an offence under this Act finds that he has been habitually committing or attempting to commit, or abetting the commission of, that offence or any other offence under this Act and the court is of opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such court may at the time of passing the sentence on the person order him to execute a bond for a sum proportionate to his means with or without sureties for his good behaviour during such period not exceeding three years, as it thinks fit.

(2) If the conviction is set aside on appeal or otherwise the bond executed shall become void.

(3) An order under this section may also be made by an appellate court or by the High Court when exercising its powers of revision.

9. Notification of addresses of offenders.-

(1) When any person is convicted of any offence punishable under this Act by a court, such court may, if it thinks fit, at the time of passing the sentence of imprisonment on such person, also order that his residence, and any change of, or absence from, such residence, after release be notified according to the rules made under this Act for a period not exceeding five years from the date of expiration of that sentence.

(2) If such conviction is set aside on appeal or otherwise such order shall become

void.

(3) An order under this section may also be made by an appellate court or by the High Court when exercising its powers of revision.

(4) Any person charged with a breach of any rule referred to in subsection

(I) may be tried by a Magistrate of competent jurisdiction in the area in which the place last notified as his residence is situated.

10. Offences to be cognizable and triable summarily.-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be cognizable and every such offence shall be tried summarily by a Magistrate of the first class in accordance with the procedure specified in the said Code:

Provided that, notwithstanding anything contained in the Code, -

(i) arrest without a warrant may be made only by the special police officer or under his direction or guidance or subject to his prior approval;

(ii) when the special police officer requires any officer subordinate to him to arrest without warrant, otherwise than in his presence, any person for an offence under this Act, he shall give that subordinate officer an order in writing, specifying the person to be arrested and the offence for which the arrest is being made; and the latter officer before arresting the person shall inform him of the substance of the order and, on being required by such person, show him the order;

(iii) any police officer, not below the rank of an Inspector specially authorised by the special police officer may, if he has reason to believe that on account of delay involved in obtaining the order of the special police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or concealed, or the person who has committed or is suspected to have committed the offence is likely to escape or if the name and address of such a person is unknown or there is reason to suspect that a false name or address has been given, arrest the person concerned without such order, but in such a case he shall report, as soon as may be, to the special police officer the arrest and the circumstances in which the arrest was made.

11. Seizure and custody of animals exposed for soliciting alms.-

(1) The special police officer, or any other police officer acting either under the directions of the special police officer or in the circumstances given in third proviso to section 10, affecting the arrest of a person, who is found begging, may seize any animal, the sore, wound, injury, deformity or disease of which is exposed or exhibited by such person with the object of soliciting or receiving alms.

(2) The police officer, affecting the seizure under sub-section (1), may send such an animal to any infirmary established under section 35 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960) for detention therein pending orders of the Magistrate under sub-section (3) of this section.

(3) The Magistrate, before whom the person found begging is brought, may direct that the animal shall be treated and cared for in such infirmary until it becomes fit

for discharge or that it shall be sent to a pinjrapole, or if the veterinary officer-in-charge of the area in which the animal is found or such other veterinary officer as has been authorised by the rules made under section 38 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), certifies that it is incurable or cannot be cured without cruelty, that it shall be destroyed, and the Magistrate may also order that after release from' the infirmary the animal may be confiscated.

(4) An animal sent for care and treatment to any infirmary shall not, unless the Magistrate otherwise directs, be released from such place except upon a certificate of its fitness for discharge is issued by the veterinary officer incharge of the area, in which the infirmary is situated, or such other veterinary officer as has been authorised by rules made under section 38 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960).

12. Seizure and custody of a child found with a beggar.-

(1) The special police officer or any other police officer acting either under the directions of a special police officer or in the circumstances mentioned in third proviso to section 10, affecting the arrest of a person under this Act, may take into his custody any child or a female found with such person as being procured, induced or taken by such person for the purpose of begging and send or cause to be sent the said child or the female, as the case may be, to the beggar home.

(2) The in charge of the beggar home shall be responsible for the care of the child or the female, as the case may be, and shall produce or cause to be produced him/her, before the Magistrate, as and when so required during the trial of the case. The Magistrate may, after making such enquiries as he may deem fit, make an order that such child/female be detained for such period as may be specified in the order in a beggar home or in such other custody as he, for reasons to be recorded in writing, shall consider suitable:

Provided that such custody shall not be that of a person, or body of persons, of a religious persuasion different from that of the child or the female to be looked after.

(3) Whenever it is established that the person whose custody has been entrusted to a beggar home under this section is a lifted child, the Magistrate may, after making such enquiry as he may deem fit and satisfying himself as to the correctness of the parentage of such a child, restore the child to his parents or his legal guardian, with the condition that the said child shall be properly looked after and brought up and shall be produced before him whenever so required.

(4) Against every order under sub-section (2) or (3) an appeal shall lie to the Sessions Judge, whose decision on such appeal shall be final.

13. Beggar homes.-

(1) The State Government may in its discretion establish as many beggar homes for the purpose of this Act as it thinks fit, and such homes, when established, shall be maintained in such manner as may be prescribed.

(2) For the purpose of sub-section (1) the State Government may by notification in the Official Gazette and subject to such conditions as it may deem fit to impose, declare any institution such as 'children home', 'destitute home', run by the

Government or by any other institution, and on such declaration the said home or institution shall be deemed to be a beggar home established under this Act:

Provided that any such condition may require that the management of the beggar home shall, wherever practicable, be entrusted to a woman.

14. Protection of action taken in good faith.-

No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority, vested with powers or authorised to discharge any function under this Act, for anything which is in good faith done or is intended to be done under this Act.

15. Power to remove difficulties.-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provision or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of such difficulty.

16. Power to make rules.-

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for,-

(a) the manner of authorising a purpose under clause (b) of section 2;

(b) the manner in which the residence and any change of residence of a convict is required to be notified under section 9;

(c) the manner in which the beggar homes established under sub-section (1) of section 13 shall be maintained;

(d) the conditions subject to which the institutions may be declared as beggar homes under sub-section (2) of section 13; and

(e) any other matter which has to be, or may be, prescribed under the Act.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. Operation of other laws not barred.-

Nothing in this Act shall be deemed to prevent any person from being prosecuted

under any other law for any act or omission which constituted an offence under this Act or from being liable under such other law to higher punishment or penalty than that provided by these provisions.