

THE KARNATAKA POLICE (AMENDMENT) BILL, 2007

A Bill further to amend the Karnataka Police Act, 1963.

Whereas it is expedient further to amend the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-eighth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Police (Amendment) Act, 2007.

(2) It shall come into force at once.

2. Amendment of section 2.- In the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964) (hereinafter referred to as the principal Act), in section 2, in clause (10), before the words "Inspector General", the words "Director General of Police", "Additional Director General of Police" shall be inserted.

3. Amendment of section 6.- For section 6 of the principal Act, the following shall be substituted, namely:-

***6. Appointment of the Director General of Police and tenure of Office.-** (1) For the direction and supervision of the Police Force, the Government shall appoint the Director General of Police from amongst three senior most police officers of the State Police force eligible to be promoted and empanelled by the Government for the rank, who shall subject to the control of the Government, exercise such powers and perform such functions and duties and have such responsibilities as are provided by or under this Act:

Provided that officer selected as the Director General of Police must not have a charge pending against him in any court or tribunal or Departmental agency on a charge filed on behalf of the State.

7(a) The Government may appoint such number of Additional Director General of Police as it may deem fit.

7(b) The Government may direct that any of the powers, functions, duties and responsibilities and authority of the Director General of Police may be exercised, performed or discharged, by a Additional Director General of Police.

(c) The Government may also by a general or special order direct that the Additional Director General of Police shall assist and aid the Director General of Police in the performance, exercise and discharge of his powers, functions, duties, responsibilities and authority in such manner and to such extent as may be specified in the order.

(3) The Director General of Police shall have a minimum tenure of two years subject to superannuation:

Provided that the Director General of Police may be removed from the office before the expiry of his tenure by the Government by a written order specifying reasons, consequent upon,-

(a) conviction by a court of law in a criminal offence involving moral turpitude or where charges have been framed by a court in a case involving corruption; or

(b) punishment of dismissal, removal, or compulsory retirement from service or of reduction to a lower post, awarded under the provisions of the All India Services (Discipline and Appeal) Rules 1969 or any other relevant rule; or

(c) suspension from service in accordance with the provisions of the said rules; or

(d) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions as the Director General of Police; or

(e) promotion to a higher post under State or Central Government; or

(f) his incompetency and inefficiency in the discharge of the duties so as to affect the functioning of the police forces.

***6A. Superior police officers and tenure of office.**- (1) The Government may appoint such number of Superior Police Officers consisting of Additional Director General of Police, Inspector General of Police and Deputy Inspector General of Police, Assistant Inspector General of Police as the Government may deem fit to assist the Director General of Police.

(2) The Government may direct that any of the powers, functions, duties and responsibilities and authority of the Director General of Police may be exercised, performed or discharged by such superior police officers appointed under sub-section (1), subject to the control of the Director General of Police.

(3) The Government may also by a general or a special order direct that such Superior Police Officers shall assist and aid the Director General of Police and exercise such powers and perform such functions and duties and have such responsibilities as provided for under the said order.

(4) The Government may ensure a normal tenure of two years from the date of assuming charge of the office to all police officers holding charge of Police Station, Police Circle, District, Police Sub-Division, Police Region and Police Commissionerate, as the case may be:

Provided that the normal tenure shall not be applicable in cases of superannuation, promotion, reversion, suspension and leave.

(5) The Government or the competent authority may, without prejudice to any other action, transfer any police officer before completing the normal tenure of two years, on being satisfied, prima facie, that it is necessary to do so on any of the following grounds, namely:-

(a) if he is found incompetent and inefficient in the discharge of duties so as to affect the functioning of the police forces;

(b) if he is accused in a criminal case involving moral turpitude;

(c) initiation of departmental proceedings against him;

(d) if he exhibits a palpable bias in the discharge of duties;

(e) misuse or abuse of powers vested in him; and

(f) incapacity in the discharge of official duties; or

(g) need to fill up a vacancy caused by promotion, transfer or retirement.

Explanation:- "Competent Authority" means an officer authorised by the Government to make transfer and posting of police officers."

4. **Insertion of section 15A.-** After section 15 of the principal Act, the following shall be inserted, namely:-

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Directive
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Room for interpretation?

* "15A. Separation of investigation and law and order.-(1) The Government may, having regard to the population in an area or the circumstances prevailing in such area, by order separate the investigating police from the law and order police in such area, as may be specified in the order, to ensure speedier investigation, better expertise and improved rapport with people.

(2) The Director General of Police shall ensure the full co-ordination between the two wings of the police force separated under sub-section (1)."

5. Insertion of Chapter III A.- After section 30 and Chapter III of the principal Act, the following shall be inserted, namely:-

" CHAPTER III A

*** STATE SECURITY COMMISSION AND POLICE ESTABLISHMENT BOARD
ETC.,**

30A. Constitution of the State Security Commission.- (1) As soon as may be after the commencement of the Karnataka Police (Amendment) Act, 2007, but not later than three months, the Government shall, constitute a State Security Commission (hereinafter referred to as the Commission), to exercise the powers and perform the functions assigned to it under the provisions of this Chapter.

- (2) The Commission shall consist of the following, namely:-
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| (a) The Home Minister | - Chairman |
| (b) The Leader of Opposition in the Legislative Assembly | - Member |
| (c) The Chief Secretary to Government | - Member |
| (d) The Principal Secretary,
Home Department | - Member |
| (e) A retired Judge of the High Court
nominated by the Government | - Member |
| (f) Two non-official members of known
integrity nominated by the Government
out of whom one shall be a woman | - Members |
| (g) The Director General of Police | - Member Secretary |

(3) Subject to the pleasure of the Government, every non-official member shall, unless his seat become vacant earlier by resignation, death or otherwise, hold office for a period of three years and shall be eligible for re-nomination.

(4) If a non-official member of the Commission is absent without sufficient cause for more than three consecutive meetings thereof, the Chairman of the Commission may, remove such member from the membership of the Commission:

Provided that, no member shall be so removed, except after giving him a reasonable opportunity of showing cause against such removal.

(5) Any non-official member of the Commission, may resign his office by giving notice in writing, of his intention so to do, to the Chairman, and on such resignation being accepted, he shall be deemed to have vacated his office.

(6) The Commission shall regulate its own procedure and the conduct of the business to be transacted by it.

(7) No person shall be appointed as or continued to be a non-official member of the Commission who,-

- (a) is not a citizen of India;
- (b) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude ; or
- (c) is of unsound mind and stands so declared by the competent court ; or
- (d) is an undischarged insolvent ; or
- (e) has been removed or disqualified from the service of the Central Government or a State Government or a corporation owned or controlled by the Central Government or a State Government ; or
- (f) has directly or indirectly by himself or his partner any share or interest in any work done by the order of the Commission or in any contract or employment with or under or by or on behalf of the Commission;
- (g) is employed as paid legal practitioner on behalf of the Commission or accepts employment as legal practitioner against the Commission;
- (h) holds any elected office, including that of Member of Parliament or State Legislature or any local body;
- (i) is a member of, or is associated in any manner with, an organisation declared as unlawful under an existing law;
- (j) is an office-bearer or a member of any political party.
- (k) is facing prosecution for any offence mentioned in clause (b) above and against whom charges have been framed by a Court of Law.

(8) A person shall not be disqualified under clause (f) of subsection (7), or to be deemed to have any share or interest in any contract or employment within the meaning of the said clause by

reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commission is inserted.

[9] The fee and allowances payable to the non-official members shall be such as may be prescribed.

30B. Functions of the Commission.- The Commission shall perform the following functions, namely:-

(a) frame broad policy guidelines for promoting efficient, effective, responsive and accountable policy, in accordance with the law;

(b) identify performance indicators to evaluate the functioning of the Police Service. These indicators shall, *inter alia*, include: operational efficiency, public satisfaction, victim satisfaction vis-à-vis police investigation and response, accountability, optimum utilisation of resources, and strict observance of human rights ; and

(c) review and evaluate organisational performance of the Police Service in the state as a whole as well as district-wise against,-

(i) the Annual Plan;

(ii) performance indicators as identified and laid down; and

(iii) resources available with and constraints of the police;

(d) any other functions, as may be prescribed.

30C. Laying of Annual Report of the Commission .- (1) The Commission shall at the end of each year send a copy of the annual report and the evaluation of the performance of the police service report to the Government.

(2) The annual report and performance of police service report shall be laid before each House of the State Legislature as soon as may be after such reports are received by the Government.

30D. Constitution of Police Establishment Board.- (1) The Government may, by notification, constitute a Police Establishment Board consisting of the following members, namely:-

(i) The Director General of Police - Chairman

(ii) Three other senior police officers
not below the rank of Inspector
General of Police - Members

- (iii) The Additional Director General of Police (Administration) - Member -Secretary

30E. Functions of the Police Establishment Board.- (1) The Police Establishment Board shall decide all transfers, postings, promotions and other matters relating to service of the Officers upto and inclusive of the rank of Inspector of Police.

(2) The Police Establishment Board shall have power to accept and examine complaints regarding illegal orders made by a police officer:

Provided that if the matter involves any authority of or above the ranks of the Deputy Superintendent of Police, it shall forward such report to the Commission for further review and action.

(3) The Police Establishment Board shall recommend names of suitable officers to the Government for posting to all the positions in the ranks of Deputy Superintendent of Police and above in the police organisation of the State, excluding the Officers belonging to Indian Police Service.

(4) It shall also function as the forum of appeal for disposing of representations of officers of and upto the rank of Inspector of Police regarding their promotions, transfers, disciplinary proceedings or their being subjected to illegal or irregular orders.

(5) The Police Establishment Board may delegate its powers under sub-section (1) to such officer as the Police Establishment Board may, notify in this behalf.

30F. Constitution of State Level Complaints Authority and District Level Complaints Authority.- (1) As soon as may be after the commencement of the Karnataka Police (Amendment) Act, 2007 but not later than three months, the Government shall constitute a State Level Complaints Authority to look into complaints against Police Officers of and above the rank of Deputy Superintendent of Police and District Level Complaints Authorities at the district level to look into complaints against police officers upto the rank of Deputy Superintendent of Police.

(2) The State Level Complaints Authority shall consist of the following, namely:-

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| (i) The Chief Secretary to the Government | - Chairman |
| (ii) The Principal Secretary to the Government
incharge of Home Department | - Member |
| (iii) The Director General of Police | - Member |

- (iv) A police officer nominated by Government not below the rank of Inspector General of Police - Member
- (v) The Inspector General of Police (Grievance cell) - Member-Secretary

(3) The Government shall, by notification, constitute a District Level Complaints Authority for each district which shall consist of the following, namely:-

- (i) The Regional Commissioner of the concerned region - Chairman
- (ii) The Inspector General of Police of the region - Member
- (iii) The Deputy Commissioner concerned - Member
- (iv) The Superintendent of Police concerned - Member Secretary

(4) The State Level Complaints Authority and the District Level Complaints Authority shall be provided with such officers and other staff as may be prescribed to assist the Authorities.

(5) The State Level Complaints Authority may take cognisance of allegations of serious misconduct by the police personnel, which may include incidents involving death, grievous hurt or rape in police custody.

(6) The District Level Complaints Authority may also inquire into allegations of extortion, land or house grabbing or any incident involving serious abuse of authority of a police officer.

(7) The procedure to be followed by the State Level Complaints Authority or District Level Complaints Authority shall be in such manner, as may be prescribed.

(8) The State Level Complaints Authority and the District Level Complaints Authority shall, while conducting enquiry, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit; and
- (d) any other matter which may be prescribed.

(9) All agencies of the Government shall render all possible assistance to the State Level Complaints Authority or District Level Complaints Authorities in respect of production of documents, examination of records, analysis of evidence or provision of expert assistance in any matter in which such State Level Complaints Authority or District Level Complaints Authorities or an officer acting under the orders of such State Level Complaints Authority or District Level Complaints Authorities requires their assistance.

(10) The recommendations of the State Level Complaints Authority or the District Level Complaints Authorities, for any action, departmental or criminal, against a delinquent police officer shall be binding in so far as initiation of departmental proceedings or registration of a criminal case is concerned. Such recommendation shall, however, not prejudice the application of mind by the enquiry officer or the investigating officer when he is conducting the departmental enquiry or criminal investigation, as the case may be."

6. Substitution of expressions.- In the principal Act, except in section 2, for the words "Inspector General" or "Inspector General of Police" wherever they occur, the words " Director General of Police" shall be substituted.

ANNEXURE

Extract from the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964)

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2. Definitions.— xx xx xx

(10) "Inspector-General", "Commissioner", "Deputy Inspector-General", "Deputy Commissioner", "Assistant Commissioner", "Superintendent", "Additional Superintendent", "Assistant Superintendent", and "Deputy Superintendent" mean respectively, the Inspector-General of Police, a Commissioner of Police, a Deputy Inspector-General of Police, a Deputy Commissioner of Police, an Assistant Commissioner of Police, a Superintendent of Police, an Additional Superintendent of Police, an Assistant Superintendent of Police and a Deputy Superintendent of Police appointed or deemed to be appointed under this Act;

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6. Inspector-General and Deputy Inspector-General.- (1) For the direction and supervision of the Police Force, the Government shall appoint an Inspector-General of Police who shall subject to the control of the State Government exercise such powers and perform such functions and duties and shall have such responsibilities and such authority as may be provided by or under this Act.

(2) (a) The Government may appoint such number of Deputy Inspectors-General as it may deem fit.

(b) The Government may direct that any of the powers, functions, duties and responsibilities and authority of the Inspector-General may be exercised, performed or discharged, by a Deputy Inspector-General.

(c) The Government may also by a general or special order direct that the Deputy Inspector-General shall assist and aid the Inspector-General in the performance, exercise and discharge of his powers, functions, duties, responsibilities and authority in such manner and to such extent as may be specified in order.

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