

## COMPLIANCE WITH SUPREME COURT DIRECTIVES ON POLICE REFORMS

### GUJARAT

This note presents the status of compliance by Gujarat with the Supreme Court directives on police reforms delivered in *Prakash Singh & Ors versus Union of India & Ors*, 2006<sup>1</sup>. Compliance is assessed against key parameters of the directives that are applicable at the state-level (refer to the index enclosed) as per the state police act. It is limited to compliance on paper and does not address implementation on the ground.

### THE SEVEN DIRECTIVES IN A NUTSHELL

**Directive One:** Constitute a State Security Commission (SSC) to: i. Ensure that the state government does not exercise unwarranted influence or pressure on the police; ii. Lay down broad policy guideline and iii. Evaluate the performance of the state police.

**Directive Two:** Ensure that the Director General of Police is appointed through merit based transparent process and secure a minimum tenure of two years

**Directive Three:** Ensure that other police officers on operational duties (including Superintendents of Police in-charge of a district and Station House Officers in-charge of a police station) are also provided a minimum tenure of two years.

**Directive Four:** Separate the investigation and law and order functions of the police.

**Directive Five:** Set up a Police Establishment Board (PEB) to decide transfers, postings, promotions and other service related matters of police officers of and below the rank of Deputy Superintendent of Police and make recommendations on postings and transfers above the rank of Deputy Superintendent of Police

**Directive Six:** Set up a Police Complaints Authority (PCA) at state level to inquire into public complaints against police officers of and above the rank of Deputy Superintendent of Police in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody and at district levels to inquire into public complaints against the police personnel below the rank of Deputy Superintendent of Police in cases of serious misconduct

**Directive Seven:** Set up a National Security Commission (NSC) at the union level to prepare a panel for selection and placement of Chiefs of the Central Police Organisations (CPO) with a minimum tenure of two years

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<sup>1</sup>Ordered in the Court's judgment in *Prakash Singh and Others vs. Union of India*, 2006 (8) SCC1.

<b>GUJARAT</b>		
<b>Directives &amp; Parameters</b>	<b>Compliance</b>	<b>Overall Compliance</b>
<b>Directive 1: State Security Commission</b>		
State Security Commission established	Yes	Non-Compliant
Leader of Opposition included	No	
Number of Independent Members	2	
Independent selection	No	
Recommendations made binding	No	
Prepare annual report and submit to assembly	No	
<b>Directive 2: Selection and Tenure of Director General of Police</b>		
Specifies shortlisting by the UPSC	No	Non-Compliant
Provides minimum tenure of 2 years irrespective of superannuation	No	
Specifies grounds for premature removal that are clear and limited to the four conditions laid down by the Court	Yes	
<b>Directive 3: Selection and Tenure of Other Officers</b>		
Provides minimum tenure of 2 years	Yes	Compliant
Specifies grounds for premature removal that are clear and limited to the four conditions laid down by the Court	Yes	
<b>Directive 5: Police Establishment Board</b>		
Composition is restricted to DGP and 4 senior officers	No*	Non-Compliant
Power to decide transfer & posting for DySP and below	No (only for Inspector/SI)	
Recommend transfer and posting for SP and above	No	
Authorized to function as an appeal forum	No**	
Authorized to review the functioning of the police	No	
<b>DIRECTIVE 6a: State Police Complaints Authority</b>		
Headed by Retired Judge	No***	Non-Compliant
No of Members	3	
Panel for Selection	No	
Recommendations are Binding	No	
Provides for Independent Investigators	No	
<b>DIRECTIVE 6b: District Police Complaints Authority</b>		
Headed by Retired Judge	No	Non-Compliant
No of Members	2	
Panel for Selection	No	
Recommendations are Binding	No	
Provides for Independent Investigators	No	

\*Include government representatives in the composition

\*\* Functions as an appeal forum for DySP and below, or up to Inspector rank, instead of SP and above

\*\*\*Chairperson could be either a retired judge, or retired Principal Secretary rank officer, or retired Director General of Police

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(as on September 2020)**

S. No.	Directives and Parameters	Status	Overall Compliance		
			Compliance	Partial Compliance	Non-Compliance
<b>Directive 1: State Security Commission</b>					
1	Establishment of the SSC	Y/N	All 5 indicators provided	Indicators 2, 3, 4 provided	Indicators 2, or 4 missing
2	Includes Leader of the Opposition	Y/N			
3	Provides an independent panel for selection of members	Y/N			
4	Recommendations are made binding	Y/N			
5	Requires submission of an Annual Report	Y/N			
<b>Directive 2: Selection and Tenure of Director General of Police</b>					
1	Specifies shortlisting by the UPSC	Y/N	All 3 indicators provided	Indicators 1 and 2 provided	Indicators 1 or 2 are non-compliant
2	Provides minimum tenure of 2 years irrespective of superannuation	Y/N			
3	Specifies grounds for premature removal that are clear and limited to the four conditions laid down by the Court	Y/N			
<b>Directive 3: Selection and Tenure of Other Officers</b>					
1	Provides minimum tenure of two years	Y/N	Both indicators are compliant	NA	Either of the indicators is non-compliant
2	Specifies grounds for premature removal	Y/N			
<b>Directive 4: Separation of Investigation and Law and Order</b>					
1	Provides for complete separation of investigation from law and order while providing for coordination between the two wings	Y/N	Not Assessed		
<b>Directive 5: Police Establishment Board</b>					
1	Composition is restricted to DGP and 4 senior officers	Y/N	All 5 indicators are compliant	Indicators 1, 2 and 3 are compliant	Indicators 1, 2, or 3 are non-compliant
2	Power to decide transfer + posting for DySP and below	Y/N			
3	Recommend transfer and posting for SP and above	Y/N			
4	Authorized to function as an appeal forum	Y/N			
5	Authorized to review the functioning of the police	Y/N			
<b>Directive 6: Police Complaints Authority</b>					
<b>6a: State Police Complaints Authority</b>					
1	Headed by retired judge	Y/N	All 4 indicators are compliant	Indicators 1, 2, and 3 are compliant	Indicators 1, 2, or 3 is non-compliant
2	Provides independent panel for selection of members	Y/N			
3	Recommendations are made binding	Y/N			
4	Provides for a pool of independent investigators	Y/N			
<b>6b: District Police Complaints Authority</b>					
1	Headed by retired judge	Y/N	All 4 indicators are compliant	Indicators 1, 2, and 3 are compliant	Indicators 1, 2, or 3 is non-compliant
2	Provides independent panel for selection of members	Y/N			
3	Recommendations are made binding	Y/N			
4	Provides for a pool of independent investigators	Y/N			