

COMPLIANCE WITH SUPREME COURT DIRECTIVES ON POLICE REFORMS

KERALA

This note presents the status of compliance by Kerala with the Supreme Court directives on police reforms delivered in *Prakash Singh & Ors versus Union of India & Ors, 2006*¹. 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

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

KERALA		
Directives & Parameters	Compliance	Overall Compliance
Directive 1: State Security Commission		
State Security Commission established	Yes	Non-Compliant
Leader of Opposition included	Yes	
Number of Independent Members	3	
Independent selection	No	
Recommendations made binding	No	
Prepare annual report and submit to assembly	No	
Directive 2: Selection and Tenure of Director General of Police		
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	
Directive 3: Selection and Tenure of Other Officers		
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	
Directive 5: Police Establishment Board		
Composition is restricted to DGP and 4 senior officers	Yes	Non-Compliant
Power to decide transfer & posting for DySP and below	No	
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	Yes	
DIRECTIVE 6a: State Police Complaints Authority		
Headed by Retired Judge	Yes	Non-Complaint
No of Members	4	
Panel for Selection	Yes	
Recommendations are Binding	Yes	
Provides for Independent Investigators	No	
DIRECTIVE 6b: District Police Complaints Authority		
Headed by Retired Judge	Yes	Non-Compliant
No of Members	2	
Panel for Selection	NA**	
Recommendations are Binding	Yes	
Provides for Independent Investigators	No	

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

**Both members are ex-officio

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(as on September 2020)**

S. No.	Directives and Parameters	Status	Overall Compliance		
			Compliance	Partial Compliance	Non-Compliance
Directive 1: State Security Commission					
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			
Directive 2: Selection and Tenure of Director General of Police					
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			
Directive 3: Selection and Tenure of Other Officers					
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			
Directive 4: Separation of Investigation and Law and Order					
1	Provides for complete separation of investigation from law and order while providing for coordination between the two wings	Y/N	Not Assessed		
Directive 5: Police Establishment Board					
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			
Directive 6: Police Complaints Authority					
6a: State Police Complaints Authority					
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			
6b: District Police Complaints Authority					
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			

