

## COMPLIANCE WITH SUPREME COURT DIRECTIVES ON POLICE REFORMS

### SIKKIM

This note presents the status of compliance by Sikkim 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*.

| SIKKIM   |                             |                    |
|--|-----------------------------|--------------------|
| Directives & Parameters  | Compliance                  | Overall Compliance |
| <b>Directive 1: State Security Commission</b>  |                             |                    |
| State Security Commission established  | Yes                         | Non-Compliant      |
| Leader of Opposition included  | Yes                         |                    |
| Number of Independent Members  | 3                           |                    |
| Independent selection  | Yes                         |                    |
| Recommendations made binding   | No                          |                    |
| Prepare annual report and submit to assembly   | Yes                         |                    |
| <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 | No                          |                    |
| <b>Directive 3: Selection and Tenure of Other Officers</b>   |                             |                    |
| Provides minimum tenure of 2 years   | Yes*                        | Non-Compliant      |
| Specifies grounds for premature removal that are clear and limited to the four conditions laid down by the Court | No                          |                    |
| <b>Directive 5: Police Establishment Board</b>   |                             |                    |
| 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  | Yes                         |                    |
| Authorized to function as an appeal forum  | Yes                         |                    |
| Authorized to review the functioning of the police   | No                          |                    |
| <b>DIRECTIVE 6a: State Police Complaints Authority</b>   |                             |                    |
| Headed by Retired Judge  | Yes                         | Non-Compliant      |
| No of Members  | 2                           |                    |
| Panel for Selection  | Yes                         |                    |
| Recommendations are Binding  | No                          |                    |
| Provides for Independent Investigators   | Yes                         |                    |
| <b>DIRECTIVE 6b: District Police Complaints Authority</b>  |                             |                    |
| Headed by Retired Judge  | No District PCA constituted | Non-Compliant      |
| No of Members  |                             |                    |
| Panel for Selection  |                             |                    |
| Recommendations are Binding  |                             |                    |
| Provides for Independent Investigators   |                             |                    |

\* Minimum tenure is provided only for IG, SP and SHO and leaves out DIG incharge of a range.

**Index: Compliance with Supreme Court directives on Police Reforms  
(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    |                                |                                      |   |