



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 255]

CHENNAI, WEDNESDAY, SEPTEMBER 11, 2013

Aavani 26, Vijaya, Thiruvalluvar Aandu-2044

Part IV—Section 2

Tamil Nadu Acts and Ordinances

The following Ordinance which was promulgated by the Governor on the 10th September 2013 is hereby published for general information:-

TAMIL NADU ORDINANCE No.3 OF 2013.

An Ordinance to provide for a law to carry out the directions of the Hon'ble Supreme Court in Prakash Singh case regarding Police reforms and for matters connected therewith and incidental thereto.

WHEREAS the Legislative Assembly of the State is not in session and the Governor of Tamil Nadu is satisfied that circumstances exist which render it necessary for him to take immediate action for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor hereby promulgates the following Ordinance:-

CHAPTER - I.

PRELIMINARY.

1. (1) This Ordinance may be called the Tamil Nadu Police (Reforms) Ordinance, 2013.
- (2) It shall come into force at once.
2. (1) In this Ordinance, unless the context otherwise requires,-
 - (a) "Board" means the Police Establishment Board constituted under section 8;
 - (b) "Commission" means the State Security Commission established under section 5;
 - (c) "Government" means the State Government;
 - (d) "Police Officer" means any member of the Tamil Nadu Police and includes an Indian Police Service (IPS) officer working in connection with the affairs of the State and the Tamil Nadu Police;
 - (e) "prescribed" means prescribed by rules made under this Ordinance;
 - (f) "subordinate ranks" means all ranks below the rank of Deputy Superintendent of Police or its equivalent;
 - (g) "supervisory ranks" means ranks of Deputy Superintendent of Police or its equivalent and above;

Short title and commencement.

Definitions.

(2) Words and expressions used in this Ordinance, but not defined specifically shall have the same meaning as provided in the Police Act, 1861, the Tamil Nadu District Police Act, 1859, the Chennai City Police Act, 1888, the Code of Criminal Procedure, 1973 and the Indian Penal Code.

Central Act V
of 1861.
Central Act
XXIV of 1859
Tamil Nadu Act
III of 1888.
Central Act 2
of 1974.
Central Act
XLV of 1860

CHAPTER - II.

TERM OF OFFICE OF DIRECTOR GENERAL OF POLICE AND OTHER POLICE OFFICERS.

Selection,
appointment
and tenure of
Director
General of
Police.

3. (1) The Government shall appoint the Director General of Police from amongst the five senior-most Police Officers of the Department empanelled by the Union Public Service Commission for the post of Director General of Police, having regard to length of service, very good record and range of experience for heading the Police Force.

(2) Notwithstanding anything contained in the Service Rules, the Director General of Police appointed under sub-section (1) shall hold the post for a minimum period of two years, irrespective of the date of his/her superannuation.

(3) The Director General of Police may be relieved of his/her responsibilities under the following circumstances, namely:-

- (a) on conviction by a court of law in a criminal case or a case of corruption;
- (b) on punishment of dismissal, removal or compulsory retirement from service or of reduction to a lower post awarded under the provisions of All India Services (Discipline and Appeal) Rules or any other relevant rule;
- (c) on incapacitation by physical or mental illness or otherwise becoming unable to discharge his/her functions;
- (d) on appointment to any other post either under the State Government or Central Government, with his/her consent for such posting;
- (e) on other administrative grounds to be recorded in writing.

Term of office
of holder of
certain posts.

4. (1) Subject to the service conditions, a Police Officer posted to be in charge of a Police Station, Police District or Commissionerate shall hold office for a minimum period of two years, or till the date of his/her superannuation, whichever is earlier.

(2) The provisions of sub-section (1) shall not apply in cases where any Police Officer referred to in sub-section (1) is-

- (a) convicted by a court of law in a criminal case or a case of corruption;
- (b) involved in a criminal case wherein charges have been framed by a court;
- (c) awarded punishment in disciplinary proceedings;
- (d) placed under suspension;
- (e) subjected to disciplinary proceedings after charges having been framed;
- (f) incapacitated by physical or mental illness or otherwise becoming unable to discharge his/her functions;
- (g) promoted to a higher post;
- (h) to be relieved to fill up a vacancy caused by promotion, transfer or retirement of other officer;
- (i) to be relieved for any other administrative grounds to be recorded in writing.

CHAPTER - III.

ADMINISTRATION OF POLICE SERVICE.

5. (1) The Government shall establish a Commission to be known as State Security Commission.

State Security
Commission.

(2) The Commission shall consist of the following members, namely:-

(a) the Minister, in-charge of the portfolio of Police, who shall be the Chairperson, ex-officio;

(b) the Leader of the Opposition in the Tamil Nadu Legislative Assembly;

(c) Chairperson, Tamil Nadu Public Service Commission, ex-officio;

(d) Chairperson, Tamil Nadu State Human Rights Commission, ex-officio;

(e) Chairperson, State Women's Commission, ex-officio;

(f) Chairperson, State Minorities Commission, ex-officio;

(g) the Chief Secretary, ex-officio;

(h) the Secretary in-charge of the Home Department, ex-officio; and

(i) the Director General of Police, who shall be the Member-Secretary, ex-officio.

6. The Commission shall perform the following functions, namely:-

Functions of
Commission.

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

(b) to identify performance indicators to evaluate the functioning of the Police Force, which shall include operational efficiency, public satisfaction, victim satisfaction in respect of Police investigation and response, accountability, optimum utilisation of resources and observance of human rights standards;

(c) to review and evaluate organisational performance of the Police Force; and

(d) such other functions that may be entrusted by the Government.

7. (1) The Commission shall, at the end of every year, submit to the Government the annual report on its work during the preceding year and on the evaluation of performance of the Police Force which shall include recommendations for improvement.

Annual report.

(2) The Government shall lay the annual report referred to in sub-section (1) on the table of the Legislative Assembly.

8. (1) There shall be a Police Establishment Board consisting of the Director General of Police and the following four senior Police Officers in the rank of Additional Director General of Police, namely:-

Constitution
and functions
of the Police
Establishment
Board and
Committees.

(a) Additional Director General of Police (Administration);

(b) Additional Director General of Police (Law and Order);

(c) Additional Director General of Police (Head Quarters); and

(d) Additional Director General of Police (Intelligence).

(2) The Director General of Police shall be the Chairperson and the senior-most Additional Director General of Police shall be the convener of the Board.

(3) The functions of the Board shall be as follows:-

(a) The Board shall consider and recommend promotion, transfer and posting of the officers in the rank of Superintendent of Police and above up to the rank of Inspector General of Police.

On the recommendations of the Board, the Director General of Police shall send the proposals to the Government for appropriate action.

For promotion, transfer and posting of officers above the rank of Inspector General of Police, the Director General of Police shall send the proposals to the Government for appropriate action.

(b) The Board shall function as a forum to deal with representations from officers of the rank of Superintendent of Police and above. The Board shall examine such representations and send its recommendations to the Government by the Director General of Police.

(c) The Board shall also make recommendations to the Government for Award of Medals.

(4) There shall be a State Police Establishment Committee to consider matters relating to promotion, transfer and postings of officers of and below the rank of Additional Superintendent of Police.

(5) There shall be Zonal, Range, City and District Level Establishment Committees which will be empowered to effect transfers of Police Personnel of subordinate rank within their jurisdiction in accordance with the instructions and guidelines issued by the Government.

(6) The Government shall prescribe the composition, responsibilities, functions and powers of the State, Zonal, Range, City and District Level Establishment Committees.

(7) The recruitment and promotions made under this section shall be in accordance with the service rules governing the respective service, category and class.

Law and Order
and Criminal
Investigation
wings -
separation

9. (1) In every Police Station, except those specifically designated as Crime Police Stations, there shall be a Law and Order Wing and an Investigation Wing, both working under the control of the Station House Officer, who shall ensure co-ordination between the two wings.

(2) The Investigation Wing shall be responsible for investigation and prosecution of all cases registered in the station, including cases detected by the Law and Order Wing.

(3) The Police Officers of the Investigation Wing may be called Detective Constables, Detective Head Constables and Detective Sub-Inspectors. They shall not be diverted to any bandobust work except with the prior approval of the Zonal Inspector General of Police or Commissioner of Police.

(4) The Investigation Wing shall be provided with adequate staff to cope with the work load. The Board shall lay down norms for staff strength taking into account the volume of cases.

(5) Every Police Station shall have a Missing Person Liaison Officer in the rank of a Detective Sub-Inspector to co-ordinate and follow up cases of missing persons.

(6) Within the Investigation Wing of each Police Station, at least one officer with aptitude and appropriate training and orientation shall be designated as the 'Juvenile or Child Welfare Officer' as required under sub-section (2) of section 63 of the Juvenile Justice (Care and Protection of Children) Act, 2000. This officer will handle juveniles or children in co-ordination with other Police Officers. These officers together will be members of the Special Juvenile Police Unit of the District or City to co-ordinate and to upgrade the Police treatment of juveniles and children.

Central Act
56 of 2000.

CHAPTER-IV.

POLICE ACCOUNTABILITY.

State Police
Complaints
Authority.

10. The Government shall establish at the State Level, a Police Complaints Authority, which shall have as its Chairperson, the Secretary in-charge of the Home Department. The Director General of Police and Additional Director General of Police (Law and Order) shall be the members of the State Police Complaints Authority.

Conduct of
business.

11. The State Police Complaints Authority shall frame its own rules for the conduct of its business.

Functions of
State Police
Complaints
Authority.

12. The State Police Complaints Authority shall inquire into allegations of "serious misconduct" against Police Personnel in the supervisory ranks, on a complaint received from a victim in the form of a sworn affidavit duly attested by a notary public:

Provided that in case of death in Police custody, the complaint can be received from the legal heirs or close relatives of the victim:

Provided further that the State Police Complaints Authority shall entertain the complaint, only on prima facie satisfaction about the veracity of the complaint:

Provided also that no anonymous or pseudonymous complaints shall be entertained:

Provided also that the State Police Complaints Authority shall not entertain complaints of serious misconduct which are the subject matter of any judicial proceedings or inquiry under the Commissions of Inquiry Act, 1952 or the Protection of Human Rights Act, 1993, or the Police Standing Orders.

Explanation.—For the purpose of this Chapter, "serious misconduct" means any act or omission of a Police Officer that leads to or amounts to-

- (a) death in Police custody;
- (b) rape;
- (c) grievous hurt in Police custody.

13. (1) Any complaint of serious misconduct received by the State Police Complaints Authority which is not covered by the fourth proviso to section 12 shall be referred to the Police Complaints Division for enquiry and report, if necessary, after examining the victim or complainant or any other person and relevant documents.

(2) The State Police Complaints Authority shall submit its recommendations to the Government for appropriate action.

14. (1) The Government shall, by notification, constitute a District Police Complaints Authority for each District or Commissionerate.

(2) The District Police Complaints Authority shall have as its Chairperson the District Collector/District Magistrate. The Superintendent of Police and the Additional Superintendent of Police shall be the members of the District Police Complaints Authority. In the case of Commissionerates, other than Chennai, the Superintendent of Police of the District and the Deputy Commissioner of the Commissionerate shall be the members. In the case of the Commissionerate of Chennai, the District Collector and the Commissioner of Police shall be the members.

15. (a) The District Police Complaints Authority shall enquire into allegations of misconduct or serious misconduct, against Police Personnel in subordinate ranks, on a complaint received from a victim in the form of a sworn affidavit duly attested by a notary public:

Provided that in the case of death in Police custody, the complaint can be received from the legal heirs or close relatives of the victim:

Provided further that the District Police Complaints Authority shall entertain the complaint, only on prima facie satisfaction about the veracity of the complaint:

Provided also that no anonymous or pseudonymous complaints shall be entertained:

Provided also that the District Police Complaints Authority shall not entertain complaints of serious misconduct or misconduct which are the subject matter of any judicial proceedings or inquiry under the Commissions of Inquiry Act, 1952, or the Protection of Human Rights Act, 1993, or the Police Standing Orders.

Explanation. - For the purpose of this clause, the expression 'serious misconduct' will have the same meaning assigned in the explanation to section 12 and 'misconduct' means extortion, land or house grabbing or any other incident involving serious abuse of authority;

(b) The District Police Complaints Authority shall refer to the State Police Complaints Authority complaints received by it against Police Officers in the 'supervisory rank' and such other matters as it may deem fit.

16. The District Police Complaints Authority shall follow the following procedure for the disposal of complaints:-

(a) Any complaint of misconduct or serious misconduct received by the District Police Complaints Authority which is not covered by the fourth proviso to section 15 shall be referred to the Police Complaints Division for enquiry and report, if necessary, after examining the victim or complainant or any other person and relevant documents and after ascertaining from the concerned disciplinary authority whether any disciplinary proceedings have already been initiated in regard to the same complaint of misconduct.

(b) The District Police Complaints Authority shall submit its recommendations to the Government for appropriate action.

Recommendations of State Police Complaints Authority.

Constitution of District Police Complaints Authority.

Functions of District Police Complaints Authority.

Procedure to be followed by District Police Complaints Authority.

Central Act 60 of 1952.
Central Act 10 of 1994.

Central Act 60 of 1952.
Central Act 10 of 1994.

Complaint involving supervisory rank and subordinate rank.

17. If a complaint of serious misconduct involving both personnel in supervisory ranks as well as subordinate ranks is made, in respect of the same misconduct, it shall be dealt with by the State Police Complaints Authority.

Supporting staff of State Police Complaints Authority and District Police Complaints Authority.

18. The State Police Complaints Authority and District Police Complaints Authority shall be assisted by requisite supporting staff with such terms and conditions and allowances as may be prescribed for the efficient discharge of their functions.

Police Complaints Division.

19. A Police Complaints Division shall be constituted with field units in such manner as may be prescribed to carry out investigations. It will work under the administrative control of an Additional Director General of Police, under the overall control of the Director General of Police. It shall consist of, apart from serving Police Officers, retired Police Officers or Vigilance or Intelligence or Crime Branch Police Officers or personnel serving or retired from other departments.

CHAPTER-V.

MISCELLANEOUS.

Power to make rules.

20. (1) The Government may make rules to carry out all or any of the purposes of this Ordinance.

(2) (a) All rules made under this Ordinance shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Ordinance, shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.

(3) Every rule made or notification or order issued under this Ordinance, shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule, notification or order, or the Legislative Assembly decides that the rule, notification or order should not be made or issued, the rule, notification or order 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, notification or order.

Power to remove difficulties.

21. If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Ordinance as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Ordinance.

Act of State Security Commission, Board, State Police Complaints Authority and District Police Complaints Authority not to be invalidated by certain defects.

22. No act or proceeding of the Commission, Board, State Police Complaints Authority and District Police Complaints Authority shall be called in question merely on the ground of the existence of any vacancy in, or any defect in the constitution of such Commission, Board, State Police Complaints Authority and District Police Complaints Authority.

10th September 2013.

K. ROSAIAH,
Governor of Tamil Nadu.

EXPLANATORY STATEMENT.

The Supreme Court of India in its judgment in Prakash Singh Vs. Union of India { (2006) 8 SCC 1} directed that every State should enact a new Police Act and also gave directions to the State Governments on the following issues till a new legislation is enacted, namely:-

1. State Security Commission.
 2. Selection and minimum tenure of Director General of Police.
 3. Minimum tenure of Inspector General of Police and other officers.
 4. Separation of investigation.
 5. Police Establishment Board.
 6. Police Complaints Authority.
2. In order to comply with the directions of the Hon'ble Supreme Court, the Government have decided to enact a law in respect of Police Reforms.
3. The Ordinance seeks to give effect to the above decision.

(By order of the Governor)

G. JAYACHANDRAN,
*Secretary to Government,
Law Department.*