

ORISSA ORDINANCE No. 6 OF 1969

THE ORISSA PREVENTIVE DETENTION ORDINANCE, 1969

*[Promulgated by the Governor of Orissa on the 30th December 1969,
published in an extraordinary issue of the Orissa Gazette
dated the 30th December, 1969]*

AN

ORDINANCE

TO PROVIDE FOR PREVENTIVE DETENTION IN ORDER TO CHECK
CERTAIN ACTIVITIES SUCH AS NAXALITE ACTIVITIES AND
OTHER ACTIVITIES OF LIKE NATURE AND FOR MATTERS
INCIDENTAL THERETO

WHEREAS the Legislature of the State of Orissa is not in session;

AND WHEREAS the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for preventive detention in order to check certain activities such as Naxalite activities and other activities of like nature and for matters incidental thereto;

AND WHEREAS instructions from the President have been received to promulgate an Ordinance for the above purpose;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Twentieth Year of the Republic of India:—

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Orissa Preventive Detention Ordinance, 1969.

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force on the 1st day of January 1970.

Definition

2. In this Ordinance "detention order" means an order made under section 3.

Power to
make orders
detaining
certain
persons.

3. (1) The State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers, namely:—

(a) District Magistrates, or

(b) Additional District Magistrates specially empowered in this behalf by the State Government,

may if satisfied as provided in sub-section (1), exercise of the power conferred by the said sub-section.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government.

Execution
of detention
orders.

4. A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898. 5 of 1898.

Power to
regulate
place and
conditions of
detention.

5. Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the State Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, within the State by order of the State Government.

6. (1) If the State Government or an officer specified in sub-section (2) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government or officer may—

- (a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate; or
- (b) by order notified in the Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under clause (b) of sub-section (1) shall be cognizable.

7. (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

8. (1) The State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Ordinance.

(2) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the State Government.

(3) The State Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

9. In every case where a detention order has been made under this Ordinance, the State Government shall, within thirty days from the date of detention under the order, place before the Advisory Board the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report furnished by such officer under sub-section (3) of section 3.

10. (1) The Advisory Board shall after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the State Government within ten weeks from the date of detention.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members of the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

Action upon
the report
of Advisory
Board and
the maxi-
mum period
of detention.

11. (1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the State Government may confirm the detention order and continue the detention of the person concerned for such period, not being beyond a period of twelve months from the date of detention, as they think fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the State Government shall revoke the detention order and cause the person to be released forthwith.

Revocation
of detention
orders.

12. (1) Without prejudice to the provisions of section 22 of the Orissa General Clauses Act, 1937, a detention order may at any time be revoked or modified, notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3, by the State Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the State Government or an Officer, as the case may be, is satisfied that such an order should be made:

Provided that any person who is in detention under the Preventive Detention Act, 1950, on the date of expiry of the said Act may be detained for a further period if the authority under whose order he was so detained is satisfied that such further detention is necessary to prevent him from acting in any manner prejudicial to the maintenance of public order on all or any of the grounds on which he was so detained and thereupon all the provisions of this Ordinance shall apply in the same manner and to the same extent as they apply in the case of detention orders made under section 3.

Temporary
release of
persons
detained.

13. (1) The State Government may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(2) In directing the release of any person under sub-section (1), the State Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

Protection
of action
taken
under the
Ordinance.

14. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Ordinance.

Dated the 30 December 1969

S. S. ANSARI
Governor of Orissa