

## **PUBLISHED BY AUTHORITY**

OORISSA ACT XXI OF 1951

## THE ORISSA MAINTENANCE OF PUBLIG ORDER (AMENDMENT) ACT, 1951

[Reached the meant of the President on the 25¢!» M ay 1951, first Published in an Extraordinary issue of the Orissa Gazette, dated the 30<sup>th</sup> May 1951

AN ACT FURTHER TO AMEND TEE ORISSA MAINTENANCE OF PUBLIC ORDER ACT, 1950

WHEREAS it is expedient further to amend the

Orissa Maintenance of Public Order Act, 1950, in the manner hereinafter appearing;

It is hereby enacted as follows:—

- **1. Short title and commencement** : (1) This Act may be called the Orissa Maintenance of Public Order (Amendment) Act, 1951.
- (2) This Act shall have retrospective effect and the insertions and additions mentioned herein shall be deemed to have been made on and to have effect from the 31st day of March 1951:

Provided that a person shall not be liable to any penalty in respect» of anything done or omitted to have been done by him before the passing of this Act, which was not unlawful between the 31st day of March 1951 and the date of the passing of this Act.

- 2. Amendment of the preamble: In the title and the preamble to the Orissa Maintenance of Public Order Act, 1950 (Orissa Act X of 1950) (hereinafter referred to as the aid Act), after the word "tendency to overthrow the State" the words "the protection of the interests of the Scheduled Tribes in Orissa", shall be inserted.
- **3. Amendment of Section 1:** For sub-section (4) of section 1 of the said Act, the following sub-section shall be substituted, namely:-

- "(4) It shall cease to have effect after the ûrst day of April 1952 and section 5 of the Orissa General clauses Act, 1937, (Orissa Act I of 1937) shall 'apply upon the expiry of this Act as if it had been then repealed by an Orissa. Act."
- **4. Amendment of Section 2:** For sub-sections' (1), (2)' and (3) of section 2, of the said Act, the following sub-sections shall be substituted, namely :—'

Power to make order restricting the movements or action of certain person: (1) If the State Government or a District Magistrate is satisfied with respect to any person that he is acting, or is likely to act, in a manner prejudicial to the security of the State or to the maintenance of public order or to the interest of the general public or the protection of the interest of the Scheduled Tribes in Orissa, and that, in order to prevent him from so acting it is necessary to make an order under this section (hereinafter referred to as a "restriction order"), the State Government or the District Magistrate, as the case may be, may make an order-

- (a) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or persons as may be specified therein, he shall not be in any such area or place "n the State of O1-issa a may be specified in the order;
- (b) requiring him to reside or remain in such place or within such area. in the State of Orissa may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order;
- (c) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person as may be specified. In the order;
- (d) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions:-
- (e) prohibiting or restricting the possession or use by him of any such article or articles as may he specified in the order:

Provided that no restriction order of the nature mentioned in clause (d) she-ll he made unless the State Government or the District Magistrate, as the case may be, is satisfied that the person 'is acting or is likely to act, in e, manner prejudicial to the security of the State.

(2) No restriction order 'by the State Government shall be made direct-

ing the exclusion or removal from the State of any person ordinarily resident in the State; and no such order made by the District Magistrate shall direct exclusion or removal from the district of any person already resident in that district.

- (3) When any order is made under subsection (1) by the District Magistrate or an officer or authority empowered under section 29, the District Magistrate or that officer or authority, as the case may be, shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars a. in the opinion of the District Magistrate or such ofûcer or authority, have a bearing on the necessity for or expediency of the order."
- **5. Insertion of new Section :** After section 2 of the said Act, the following new sections shall be inserted, namely:-

**Grounds of order of restriction to be disclose to persons affected by the order** 3. (1) When in exercise of the powers conferred by sub-section (1) of section 2 any order is made against a. person, the authority making the order shall, as soon as may be, communicate to him at his last known address 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 fact which it considers to be against the public interest to disclose. "
- "4. (1) The State Government shall, whenever "Y necessary, constitute an Advisory Board. for the purpose of this Act.
- (2) 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."
- 5. In every case where any order has been made under sub-section (1) of section 2, the State Government shell, within six weeks from , the date of the order, place before the Advisory Board constituted by them under section 4 the grounds on which the order has been made and the representation, if any, made by the persons affected by the order", and in case where such order has been made by an authority or office subordinate to them, also the report made by him under sub-
- **6. Procedure of Advisory Boards :** (l)The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information from the State -Government or from the person concerned, as it may deem necessary, submit its report to the State Government within ten weeks from the date of the order made under sub-section (1) of section 2.

- (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 making the order against the person concerned.
- (3) When there i difference of opinion among the members forming 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 shell entitle any person against whom the said order has been made to attend in person or to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.
- (5) All particulars contained in any correspondence between the State Government and the Advisory Board and the proceedings of t-he Advisory Board and the report made by it, except that part of the report in which the opinion of the Advisory Board is specified, shall be confidential and not with standing anything contained in any law for the time being in force no Courts shall be entitled to require any public servant to produce before it any of the foresaid documents."
- **7.Confirmation of restriction order:** (1) In any case Where the Advisory Board has reported that there is in its opinion sufficient cause for making the said order against the person concerned, the State Government may conûrm the order and continue the order against the person concerned for such period as they think ût.
- (2) In any case where the Advisory Board has reported that there is in its opinion not sufficient ca-use for making such an order against the person concerned, the State Government shall revoke the or B, In the said Act-
- (a) the existing sections 3 '00 29 shall be "renumbered as sections 8 to 34:
- (b) in the explanation to section 17," as so renumbered, for the words and ûgures "sections 10,
- 11, 12 and 14 "the words and  $\hat{u}$ gures" sections 15, 16, 17. And 19 "shall be respectively substituted;
- (c) in sub-section (4) of section 20, as an renumbered, for the word and ûgure "section 16" the word and ûgure "section 21" shall be substituted;
- (d) in section 21, as so renumbered, for the word and  $\hat{u}$ gure "section 15" the word and  $\hat{u}$ gure "section 20" shall be Substituted. \_
- **7. Amendment of Section 10**: For sub-section (1) of section 10 of the said Act, as so renumbered, the following subsection shall be substituted, namely .

Imposition of Collective fines on inhabitants of any area: (1) If it appears to the State Government that the inhabitants 01' any class or section of inhabitants of any area. are concerned in or are abetting the commission of offences resulting or likely to result in death or grievous hurt or loss of, or damage to, property, or are harboring persons concerned in the commission of such offices, or are failing to render all the assistance in their power to discover or apprehend the offender or offenders, or are suppressing material evidence of the commission of such offences, the State Government may, by notiûcation, impose collective ûnes on the inhabitants of that area:

Provided that imposition of collective ûne by any authority to whom the power may have been delegated under this Act may be made by publication of the order imposing the ûne in any such manner as such authority may consider best calculated to bring the order to the notice of the inhabitant of the area concerned."

- 8. Section 33 of the said Act, as so renumbered, shall be further renumbered as sub-section (1) of the said section and after the said sub-section (1), as so renumbered, the following new sub-section shall be inserted, namely:—
- "(2) Notwithstanding anything contained in any other law for the time being in force, the offence punishable under sub-section (6) of section 2 shall be non-bailable."