

ASSAM PREVENTION OF BEGGING ACT, 1964*

(Assam Act XVII of 1964)

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[Received the assent of the President on the 1st August, 1964]

An Act to provide for the prevention of begging in the State of Assam and certain matters connected therewith

Preamble. Whereas it is expedient to provide for the prevention of begging in the State of Assam for detention, training and employment of beggars and their dependants in certain institutions for the custody, trial and punishment of beggar offenders ;

It is hereby enacted in the Fifteenth Year of the Republic of India as follows :

COMMENTS

Preamble. This Act was enacted to provide for prevention of begging and certain matters connected therewith. Despite the problems of begging in epidemic form, this Act is not used in that intensity. The Children's Act, 1960 (Central Act No. LX of 1960) provides for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territories. The Assam Children's Act, 1970 has similarly been enacted with the same objects and aims as that of the corresponding Central Act. The Assam Children's Act, 1970 deals with certain provisions as contained in the Assam Prevention of Begging Act, 1964, such as the provisions relating to begging. Say for example the provisions of S. 11 of the Begging Act are in conformity in its objects with S. 42 of the Assam Children's Act, 1970. But however the Begging Act is a general Act and the Children's Act is confined to children only [the word "child" being defined in S. 2 (d) of the Act], and to that extent only as provided under S. 60 of the Children's Act, 1970, the Begging Act shall stand repealed. The Assam Borstal Institution Act, 1968 was enacted to provide for the detention and training of adolescent offenders therein and matters connected therewith. There are other Central Acts like the Reformatory School Act, 1897, the Women's and Children's Institution (Licensing) Act, 1956, Suppression of Immoral Traffic in Women and Girls Act, 1956, the Orphanages and other Charitable Homes (Supervision and Control) Act, 1960. But all such Central Acts either stand on different footing or have completely been covered by the Assam Children's Act, 1970.

CHAPTER I

Preliminary

1. Short title, extent and commencement. (1) This Act may be called the Assam Prevention of Begging Act, 1964.

(2) It extends to the whole of the State of Assam.

(3) It shall come into force in any area of the State, on such date as the State Government may, by notification in the official Gazette, appoint in that behalf for that area.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context—

(i) "begging" means—

- (a) soliciting or receiving alms in a public place by any person including children ;
- (b) entering on any private premises for the purpose of soliciting or receiving alms ;
- (c) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease of a human being ;
- (d) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms ;

but does not include soliciting or receiving money or food (cooked or uncooked), grain, clothing, gift or any other thing of value for a purpose authorised by any law or authorised in the manner prescribed by the District Magistrate or by the State Government :

Provided that the State Government may, by general or special order, direct that "begging" shall not include soliciting alms in or about any temple or mosque or any other place under such terms and conditions and on such occasion as may be specified in the order ;

- (ii) "certified institution" means any institution which the State Government provides and maintains for the detention, training and employment of beggars and their dependants, and includes an institution certified to be such under S. 13 ;
- (iii) "Chief Inspector" means the person appointed to be the Chief Inspector of certified institution under sub-S. (1) of S. 15 ;
- (iv) "child" means a boy or girl who has not attained the age of sixteen years ;
- (v) "Court" means a Court of Magistrate of any class, or any other court exercising criminal jurisdiction in the area in which the Act is in force ;
- (vi) "Children's Court" means a court constituted for the purpose of exercising the powers and discharging the duties conferred or imposed on such court in relation to children who are either delinquent, exploited, victimised, neglected, destitute or orphans and/or beggars or vagrants ;
- (vii) "prescribed" means prescribed by rules made under this Act ;
- (viii) "Probation Officer" means an officer appointed as a Probation Officer under this Act or under the Probation of Offenders Act, 1958 (Act 20 of 1958) ;

- (ix) "Children's Home" means an institution established for the purpose of reception and training of children who are either exploited, victimised, neglected, destitute or orphans and/or beggars or vagrants ;
- (x) "public place" means any highway, public park or garden, any railway or bus station, any railway train or other vehicle carrying passengers, any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and includes any open space to which for the time being the public have or are permitted to have an access, whether on payment or otherwise ;
- (xi) "Receiving Centre" means an institution for the reception and temporary detention of beggars provided by the State Government, or certified to be such under S. 12 ;
- (xii) "Superintendent" means a Superintendent of a receiving centre or a certified institution, as the case may be.

CHAPTER II

Procedure for dealing with beggars and beggar offenders

3. Power of courts. The powers conferred on courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a Magistrate of the first class, a Children's Court, or any other court exercising criminal jurisdiction in the area, and may be exercised by such courts whether the case comes before them originally or on appeal or revision.

4. Power to require person found begging to appear before court.

(1) Any police officer, or other person authorised in this behalf in accordance with rules made by the State Government, may arrest without warrant any person who is found begging :

Provided that no person entering on any private premises for the purpose of soliciting or receiving alms shall be so arrested or shall be liable to any proceedings under this Act, except upon a complaint by the occupier of the premises.

(2) Such police officer or other person shall take or send the person so arrested to a court.

(3) The provisions of S. 61 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to every arrest under this section, and the officer-in-charge of the police station shall cause the arrested person to be kept in the prescribed manner until he can be brought before a court.

5. Summary inquiry in respect of persons found begging and their detention. (1) Where a person who is brought before the court under the last preceding section is not proved to have previously been detained in a certified institution under the provisions of this Act, the court shall make a summary inquiry as regards the allegation that he was found begging.

The provisions of S. 202 of the Code of Criminal Procedure 1898 (Act V of 1898) shall, as far as practicable, be followed for making such inquiry.

(2) If the inquiry referred to in sub-S. (1) cannot be completed forthwith, the court may adjourn it from time to time and order the person to be remanded to such place and custody as may be convenient.

(3) If on making the inquiry referred to in sub-S. (1), the court is not satisfied that the person was found begging, it shall order that such person be released forthwith.

(4) If on making the inquiry referred to in sub-S. (1), the court is satisfied that such person was found begging, it shall record a finding that the person is a beggar.

(5) The court shall order the person found to be a beggar under the last preceding sub-section to be detained in a certified institution for a period of not less than six months, but not more than one and a half years :

Provided that, if the court is satisfied from the circumstances of the case that the person found to be a beggar as aforesaid is not likely to beg again, it may, after due admonition, release the beggar on a bond for the beggar's abstaining from begging and being of good behaviour, being executed with or without sureties as the court may require by the beggar or any other person whom the court considers suitable.

(6) In passing any order under the provisions of this Act, the court shall have regard to the following considerations, that is to say—

- (a) the age and character of the beggar,
- (b) the circumstances and conditions in which beggar was living,
- (c) reports made by the Probation Officer, and
- (d) such other matters as may, in the opinion of the court, require to be taken into consideration in the interest of the beggar.

(7) The report of the Probation Officer or any other report considered by the court under the sub-section immediately preceding, shall be treated as confidential :

Provided that if such report relates to the character, health or conduct of the beggar, or the circumstances and conditions in which the beggar is living, the court may, if it thinks expedient, communicate the substance thereof to the beggar or (in case of dependants) to the guardian concerned, and may give the beggar or the guardian, as the case may be, an opportunity of producing evidence which may be relevant to the matters stated in the report.

(8) A copy of the order made under sub-S. (5) shall be sent forthwith to the Chief Inspector.

(9) Notwithstanding anything in this section, when the person found to be a beggar as aforesaid is a child, being a child who is not under the age of five years, the Court shall hold an enquiry and if satisfied that such person—

- (a) is found without having any home or settled place of abode or means of subsistence or has a parent or guardian who by reason of criminal or drunken habit, or immoral or depraved life is unfit to exercise or does not exercise proper care and control over the child ; or
- (b) is destitute and both his parents or his surviving parent, or in the case of an illegitimate child, his mother, are or is undergoing imprisonment ;

shall declare the person to be a beggar and order him to be detained in a Children's Home, or such other institution as the State Government may specify until such time as he attains the age of sixteen years.

For the purpose of ascertaining the age of the person, the court may, if necessary, cause the beggar to be examined by a Medical Officer.

6. Penalty for begging after detention as beggar. (1) Whoever having been previously detained in a certified institution under this Act is found begging shall, on conviction, be punished as hereinafter in this section provided.

(2) When a person is convicted for the first time under sub-S. (1) the court shall order him to be detained in a certified institution for a period or not less than one year and not more than one and a half years.

(3) When a person is convicted for the second or subsequent time under sub-S. (1), the court shall order him to be detained for a period of three years in a certified institution, and may convert any period of such detention (not exceeding one year) into a sentence of imprisonment extending to a like period.

7. Offences to be tried summarily. All offences under this Act except those under S. 11 shall be tried in a summary way.

8. Contribution of parents. (1) The court, which makes an order for the detention of any person in a certified institution under S. 3 or S. 6, may make an order on the parent or other person liable to maintain him to contribute to his maintenance, if able to do so, in the manner prescribed.

(2) Before making any such order the court shall inquire into the circumstances of the parent or other person liable to maintain him, and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.

(3) Any order made under this section may, on an application made by the party liable or otherwise, be varied by the court.

(4) Any order made under this section may be enforced in the same manner as an order under S. 488 of the Code of Criminal Procedure, 1898 (Act V of 1898).

9. Court may order detention of persons wholly dependent on beggar. (1) When the court has ordered the detention of a person in a

certified institution under S. 5 or 6 it may, after making such inquiry as it thinks fit, order any person who is wholly dependent on such person to be detained in a certified institution for a like period :

Provided that before such order is made such dependent person shall be given an opportunity of showing cause why it should not be made.

(2) Where a dependent person is a child, the court shall order that the person be detained in a Children's Home or such other institution as the State Government may specify :

Provided that where the dependent person is a beggar's own child, being a child who is under the age of five years, and the beggar is an able bodied mother, not being a contagious leper or a lunatic, the child may be ordered to be detained in a certified institution without being separated from the mother as regards the place of detention until it attains the age of five years and thereafter the child may be detained in a Children's Home or such other institution as the State Government may specify for the remaining period of detention of its mother.

(3) For the purpose of this section the court may if necessary cause the dependent person to be arrested and brought before itself and cause to be examined by a Medical Officer. The provisions of S. 61 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall apply to every arrest under this sub-section, and the Officer-in-charge of the Police Station shall cause the arrested person to be kept in the prescribed manner until he can be brought before the court.

10. Power of State Government to order further detention of incurably helpless beggars. When any person who is detained in a certified institution under S. 5 or S. 6 or S. 9 is considered, whether on application made by him to the State Government or otherwise, by the State Government, to be blind, a cripple, or otherwise incurably helpless, the State Government may order that he shall, after the expiry of the period of his detention, be further detained indefinitely in a certified institution :

Provided that the State Government may release any such inmate, if any person whom the State Government considers suitable, executes a bond with or without sureties as the State Government may require, making himself responsible for the housing and maintenance of such inmate, and for the purpose of begging.

11. Penalty for employing or causing persons to beg or using them for purposes of begging. Whoever employs or causes any person to solicit or receive alms, or whoever having the custody, charge or care of a child, connives at or encourages the employment or the causing of a child to solicit or receive alms or whoever uses another person as an exhibit for the purpose of begging, shall on conviction, be punished with imprisonment for a term which may extend to one and a half years but which shall not be less than six months.

CHAPTER III

Institutions

12. Provision of Receiving Centres. The State Government may provide and maintain one or more Receiving Centres at such place or places as it thinks fit, and may certify any institution to be Receiving Centre for the purposes of this Act.

13 Provision of certified institutions. The State Government may provide and maintain one or more certified institutions at such place or places as it thinks fit, and may certify any institution to be a certified institution for the purposes of this Act.

Any such certified institution may include provision for the teaching of agricultural, industrial and other pursuits, and for the general education and medical care of the inmates.

14. Visiting Committee. For every Receiving Centre and every certified institution, the State Government shall appoint a Visiting Committee in such manner as may be prescribed.

15. Appointment of Chief Inspector, Deputy Chief Inspector and Probation Officers. (1) For carrying out the purposes of this Act, the State Government may appoint a Chief Inspector of certified institutions, a Deputy Chief Inspector of certified institutions and such number of Probation Officers as it thinks fit to assist the Chief Inspector and every person so appointed to assist the Chief Inspector shall have such of the powers and perform such of the duties of the Chief Inspector as the State Government directs, but shall act under the direction of the Chief Inspector.

(2) Every Receiving Centre or certified institution shall, at least once in every six months, be inspected by the Chief Inspector or the Deputy Chief Inspector.

16. Search in Receiving Centres and certified institutions. (1) The Superintendent of a Receiving Centre or a certified institution may order that any person received in the Receiving Centre or certified institution shall be searched, that he shall be cleansed, that his personal effects shall be inspected, and that any money or valuables found with or on the person shall be kept in the custody of such Superintendent, and that any effects other than money or valuables so found shall be disposed of in the prescribed manner. Where an order of detention is passed by the court against any such person, the Superintendent may order that any money or valuables found with or on the person shall be disposed of in the prescribed manner :

Provided that a female shall be searched only by a female, and with due regard to decency.

(2) When the court passes an order of discharge, his money and valuables shall be returned to him, and if his clothing has been destroyed, he shall be provided with fresh clothing.

17. Management and discipline. Persons remanded to, or detained in Receiving Centres and certified institutions under this Act shall be subject to such rules of management and discipline including the imposition of manual or other work and the awarding of punishment for breach of any such rules as may, from time to time, be prescribed.

18. Disciplinary imprisonment (1) Without prejudice to any disciplinary action that may be taken under the section immediately preceding, the Chief Inspector, the Deputy Chief Inspector or the Superintendent may report to the court the case of any person detained in a certified institution who habitually and wilfully disobeys or neglects to comply with any rule referred to in that section; and the court may thereupon, if satisfied that the person has wilfully disobeyed or neglected to comply with any such rule, convert the balance of the period of his detention in a certified institution or part thereof into a term of imprisonment.

(2) The sentence of imprisonment ordered as aforesaid shall be executed in the same manner as a sentence passed under S. 6.

19. Transfer from one Receiving Centre or certified institution to another. (1) Subject to the conditions prescribed the Chief Inspector may direct any person detained in a Receiving Centre or certified institution to be transferred therefrom to another Receiving Centre or certified institution in the State :

Provided that the total period of detention of such person shall in no case be increased by such transfer.

(2) In directing such transfer the Chief Inspector shall have regard to the medical certificate and the directions, if any, made by the State Government or court under S. 24.

20. Release on licence. (1) Subject to such conditions as are prescribed—

(a) the Chief Inspector or the Superintendent of the certified institution may at any time grant permission to a person detained in a certified institution to absent himself for short periods; and

(b) the Chief Inspector may at any time release such person conditionally and issue him a licence therefor.

(2) Any such licence shall be in force until the expiry of the term for which the person was ordered to be detained in a certified institution, unless sooner revoked.

(3) The period during which such person is absent from certified institution by permission or by licence as aforesaid shall, for the purpose of computing his term of detention in a certified institution be deemed to be part of his detention.

21. Revocation of licence. (1) Subject to such conditions as are prescribed the Chief Inspector may at any time revoke a licence issued under S. 20, and thereupon the released person shall be detained in a certified institution until the expiry of the term for which he had been ordered to be detained.

(2) For the purpose of this section the Chief Inspector may, if necessary, cause the released person to be arrested and sent to the nearest Receiving Centre together with a copy of the order of detention, and thereupon the provisions of sub-S. (1) of S. 23 shall, as far as may be, apply.

22. Unconditional release. At any time after the expiration of three months from the commencement of the release on licence of any person under S. 20, the Chief Inspector may, if he is satisfied that there is a probability that such person will abstain from begging, recommend to the State Government his unconditional release. The State Government may on such recommendation release such person unconditionally, and thereupon the term for which such person has been ordered to be detained in a certified institution shall be deemed to have expired.

CHAPTER IV

Miscellaneous

23. Procedure on order of detention or sentence of imprisonment.

(1) Subject to the provisions of sub-S. (2), when a person has been ordered to be detained in a certified institution under S. 5 or S. 6 or S. 9, the court which ordered the detention shall forthwith forward him to the nearest Receiving Centre with a copy of the order of detention. The person shall thereupon be handed over into the custody of the Superintendent of the Receiving Centre and shall be detained in the Receiving Centre until he is sent therefrom to a certified institution.

(2) When any such person has also been sentenced to imprisonment, the court passing the sentence of imprisonment shall forthwith forward a warrant to a jail in which he is to be confined and shall forward him to such jail with warrant together with a copy of the order of detention. After the sentence of imprisonment is fully executed, the officer executing it shall, if detention in a certified institution for any period remains to be undergone by such person, forward him forthwith together with the copy of the order of detention to the nearest Receiving Centre, and thereupon the provisions of sub-S. (1) shall, as far as may be, apply.

(3) In computing the period for which a person is ordered to be detained in a certified institution, there shall be included the period for which he is detained in a Receiving Centre under this section.

24. Medical examination and detention of leprosy patients and lunatics. (1) Where it appears to the State Government that any beggar detained in a certified institution under any order of a court is of unsound mind or suffers from any communicable diseases like leprosy, tuberculosis, venereal disease etc. the State Government may, by an order setting forth the grounds of belief that the beggar is of unsound mind or suffers from leprosy, tuberculosis, venereal disease, etc., order his removal to a Mental Hospital or a Leper Asylum or other place of safe custody there to be kept and treated as the State Government directs during the remainder of the term for which he has been ordered to be detained or if, on the expiration of that term it is necessary for the safety of the beggar or of others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the State Government that the beggar has ceased to be of unsound mind, or is cured of leprosy, tuberculosis, venereal diseases etc., the State Government shall by an order direct the person having charge of the beggar, if still liable to be kept in custody, send him to the certified institution from which he was removed or to any other institution as the State Government may decide ; or if the beggar is no longer liable to be kept in custody order him to be discharged.

(3) Subject to the provisions of sub-S. (2) the provisions of S. 31 of the Indian Lunacy Act, 1912 (Act IV of 1912) or of S. 14 of the Lepers Act, 1898 (Act III of 1898), shall apply to every beggar confined in a Mental Hospital or Leper Asylum under sub-S. (1) after the expiration of the period for which he was ordered to be detained ; and the time during which a beggar is confined in a Mental Hospital or Leper Asylum under that sub-section shall be reckoned as part of the period for which he may have been ordered by the court to be detained :

Provided that where the removal of a beggar due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the beggar is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912 (Act IV of 1912), or the Lepers Act, 1898 (Act III of 1898), as the case may be, for an immediate order of committal to a Mental Hospital or a Leper Asylum until such time as the orders of the State Government can be obtained in the matter.

25. Beggar to leave institution only on discharge or permission. No person who is admitted under the provisions of this Act to any institution shall leave it without an order of discharge or without the written permission of the Superintendent of the institution.

26. Procedure to deal with absconding beggars. Whoever, in contravention of the provisions of S. 25, escapes from an institution to which he has been committed under the provisions of this Act, or fails to return thereto after the expiry of the period of absence permitted under sub-S. (1) of S. 20 shall, on a report from the Superintendent of the Institution, be arrested by any police officer without warrant and sent back to the Receiving Centre or certified institution, as the case may be.

27. Transfers between certified institutions and institutions of like nature in different parts of India. (1) The State Government may direct any person detained in a certified institution to be transferred therefrom to any institution of a like nature in any other part of India in respect of which provisions similar to that in the State of Assam is made by the State Government of that part under any law in force therein :

Provided that no person shall be transferred under this section to any other State without the consent of the Government of that other State.

(2) The State Government may, in consultation with the Superintendent of any certified institution, consent to the transfer to that institution of any person in respect of whom an order of detention has

been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be detained in a certified institution or institution of a like nature and upon such transfer the provisions of this Act shall apply to such person.

28. Offences to be cognizable and non-bailable. The offences under Ss. 6 and 11 of this Act shall be cognizable and non-bailable.

29. Persons to be deemed public servants. All persons empowered to perform any function by this Act shall be deemed to be public servants within the meaning of S. 21 of the Indian Penal Code.

30. Bonds to be taken under Act V of 1898. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, as far as may be, apply to bonds taken under this Act.

31. Appeals. For the purposes of appeal and revision under the Code of Criminal Procedure, 1898 (Act V of 1898), an order of detention under this Act (including an order of detention under S. 5), shall be deemed to be a sentence of imprisonment for the same period.

32. Power to make rules. (1) The State Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely :

- (a) the manner of authorising a purpose under sub-S. (1) of S. 2 ;
- (b) the manner of keeping persons arrested under sub-S. (3) of S. 4 or S. 9 ;
- (c) the manner of making summary inquiry under sub-S. (1) of S. 5 ;
- (d) the manner in which contribution for the maintenance of a person detained in certified institution may be ordered to be paid under sub-S. (1) of S. 8 ;
- (e) the manner of appointment of a Visiting Committee under S. 14 ;
- (f) the manner in which the effects and the money and valuable referred to in S. 16 shall be disposed of ;
- (g) the management and discipline of persons detained in a Receiving Centre or certified institution including the imposition of manual or other work and the awarding of punishment for breach of any rule made under this clause ;
- (h) the conditions subject to which the Chief Inspector may direct transfer under S. 19 ;
- (i) the conditions subject to which a person may be released on licence under S. 20 ;
- (j) the conditions subject to which a licence may be revoked under S. 21 ;

- (k) the manner of medical examination of beggars ;
- (l) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule 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.

33. Removal of difficulties. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order published in the official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty.
