

BIHAR SPECIAL ARMED POLICE BILL, 2021

PREAMBLE:- Whereas the Bihar Police Act 2007 (Bihar Act 7 of 2007) was published in the official gazette on 30th March 2007 and is operative in the State;

And whereas prior to the enactment of the said act, Police Services of the State were governed by the Police Act, 1861 and the rules framed there under and Bihar Military Police in the State was governed by Bengal Military Police Act, 1892, as applicable to the State of Bihar, and the rules framed there under.

And whereas Bihar, being a rapidly developing state requires an armed police force with multi-domain expertise to meet requirements of industrial security, security of vital installations, airports, metro rail etc in larger interest of the State;

And whereas, the internal security of Bihar needs to be strengthened through a dedicated, well trained and fully equipped armed police force of the state.

And whereas, keeping in view the role of Bihar Military Police and its distinct organizational structure, it is necessary that its separate identity should continue to be maintained as a Special Armed Police to achieve the above objectives;

Therefore, it is expedient to make provision for the constitution, organized development and better regulation of a multi-domain Special Armed Police Force

Be it enacted by the Legislature of State of Bihar in the seventy-second year of the Republic of India as follows:

Short Title, Extent and Commencement :-

- 1.(1) This Act may be called the Bihar Special Armed Police Act, 2021.
- (2) It extends to the whole of the State of Bihar.
- (3) It shall come into force from the date of Publication in official gazette.

Definitions :-

2. In this Act, unless the context otherwise requires,-

- (i) "Act" means the Bihar Special Armed Police Act, 2021.
- (ii) "Active service" in relation to a person subject to this Act, means any duty assigned to or engaged in by a Special Armed Police officer against hostile groups or other persons in the field and includes any period during which such Special Armed Police Officer is deputed to deal with any dangerous criminal or any actual or apprehended breach of the peace and any period, the engagement during which, is specified to be an active service by an order of any superior officer in this behalf.

- (iii) "Deputy Commandant" shall be "Second-in-Command" to the Commandant of the Battalion and means a person appointed by the Government to be Deputy Commandant of the Special Armed Police.
- (iv) "Battalion" means a unit of the Bihar Special Armed Police constituted as a battalion by the Government.
- (v) "Commandant" means a person appointed by the Government to be a Commandant of the Special Armed Police Battalion and includes a Superintendent of Police in charge of the district.
- (vi) "Government" means State Government of Bihar.
- (vii) "Notification" means notification published in the official gazette of the Government.
- (viii) "Prescribed" means prescribed by rules framed by the Government under this Act;
- (ix) "Senior officer" shall mean any police officer appointed to the Special Armed Police under section 4 of the Act.
- (x) "Special Armed Police Officer" means a person appointed, under this Act, who has signed the statement in Schedule II to this Act, in accordance with the provisions of this Act and belongs to any of the category of police officers mentioned in schedule III of this Act and any other officer as may be notified.
- (xi) "Specified Establishment" means any industrial or commercial undertaking in public or private sector; vital installation such as airport, metro rail, power plant, place of historical and cultural importance, and any other place, installation or activity as may be notified by the Government from time to time.
- (xii) "Superior Officer" means in relation to an officer of the Special Armed Police, any officer of a rank which as prescribed is higher than that of such officer.
- (xiii) The words and expressions, "reason to believe", "criminal force", "assault", "fraudulently" and "voluntarily causing hurt" have the meanings as assigned to them in the Indian Penal code, 1860 (XLV of 1860).

Constitution of the Special Armed Police :-

3. (1) There shall be an Armed Police of the State to be called Bihar Special Armed Police, for maintenance of public order, combating extremism, ensuring the better protection and security of specified establishments in such manner as may be notified and perform such other duties, as may be notified.
- (2) The Special Armed Police shall be constituted into one or more Battalions in such manner and for such period as may be prescribed.
- (3) The Bihar Military Police Battalions in existence at the time of commencement of this Act shall be deemed to have been constituted under this Act and shall henceforth be called as Bihar Special Armed Police Battalions as mentioned in Schedule I to this Act;

Provided that the Government may, by notification, modify, add or delete any Battalion, for the purposes of this Act.

Superintendence, Command and Administration of Special Armed Police :-

4. (1) The general superintendence of the Special Armed Police shall vest in and be exercised by the Government. The command, supervision and administration

of the Special Armed Police shall vest in the Director General of Police, Bihar, who is the head of the Police force of the State.

- (2) The Director General of Police, Bihar shall, in the discharge of his duties under this Act, be assisted by the Director General/ Additional Director General/such other rank police officer, who is appointed as head of the Special Armed Police.
- (3) The Government shall appoint to the Special Armed Police such number of Inspectors General, Deputy Inspectors General, Commandants and such other rank police officers, as may be notified.
- (4) The Senior officers appointed to the Special Armed Police shall exercise such powers and duties as may be prescribed.

Classes and Grades of Special Armed Police Officers :-

5. (1) The hierarchy of the Special Armed Police Officers shall be as mentioned in Schedule III of the Act;

Provided that the government may, by notification, add or delete any of the posts in the said Schedule.

- (2) Military Police Officers who are continuing in office on the date of commencement of this Act, shall be deemed to have been appointed as Special Armed Police Officers under this Act.

Enrolment and Discharge of Special Armed Police Officers :-

- 6.(1) Before any person is appointed to the Special Armed Police, the statement in Schedule II shall be read and, if necessary, be explained to him in the presence of Commandant or Deputy Commandant and shall be signed by him in acknowledgement of its having been so read to him.

- (2) Special Armed Police Officer shall not be entitled to be voluntarily discharged from the Force, except in accordance with the terms of the statement which he has signed under this Act.

Power to arrest without warrant :-

7. (1) Any Special Armed Police Officer, while being entrusted with the security of specified establishment may without any order from a Magistrate and without a warrant, arrest —

- (i) any person who voluntarily causes hurt to, or attempts voluntarily to cause hurt to, or wrongfully restrains or attempts wrongfully to restrain or assaults, threatens to assault, or uses, or threatens or attempts to use, criminal force to any employee of such specified establishment, or to him or any Special Armed Police Officer, in discharge of his duty as such employee or in execution of his duty as such Special Armed Police Officer, as the case may be, or with intent to prevent or to deter him from discharging his duty as such Special Armed Police Officer, or in

consequence of anything done or attempted to be done by him in the lawful discharge of his duty as such Special Armed Police Officer;

- (ii) any person who has been concerned in, or against whom a reasonable suspicion exists of his having been concerned in, or who is found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing, a cognizable offence which relates to property belonging to, or in the premises of, any such specified establishment.
 - (iii) any person who commits or attempts to commit a cognizable offence which involves or which is likely to involve danger to the life of any person engaged in carrying on any work relating to any specified establishment.
- (2) If any person is found trespassing on the premises of any specified establishment, he may, without prejudice to any other proceedings which may be taken against him, be removed from such premises by any Special Armed Police Officer.

Power to search without warrant :-

8. (1) Whenever any Special Armed Police Officer, not below the notified rank, has reason to believe that any offence as is referred to in section 7 has been or is being committed and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may detain the offender and search his person and belongings forthwith and, if he thinks proper, arrest any person whom he has reason to believe to have committed the offence.
- (2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches under that Code shall, so far as may be, apply to searches under this section.

Procedure to be followed after arrest :-

9. Any Special Armed Police Officer making an arrest under this Act, shall, without unnecessary delay, make over the person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken to the nearest police station together with a report of the circumstances occasioning the arrest.

Privileges of Senior Officers of Special Armed Police as Police-officer :-

10. The Director General/Additional Director General/such other rank police officer appointed as head of the Special Armed Police and other police officers including Inspectors General, Deputy Inspectors General, Commandants and Deputy Commandants of the Special Armed Police shall be entitled to all the privileges which a police officer has under the Bihar Police Act, 2007, the Indian Evidence Act, 1872, Code of Criminal Procedure, 1973 and any other enactment for the time being in force.

Punishment for heinous offences :-

11. A Special Armed Police Officer who -

- (a) begins, excites, causes or joins in, any mutiny or sedition, or, being - present at any mutiny or sedition, does not use his utmost endeavour to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or
- (b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is in his duty to defend; or
- (d) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; or

Who, while in active service, -

- (e) disobeys the lawful command of his superior officer; or
- (f) deserts the service; or
- (g) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or
- (h) Without authority leaves his Commanding Officer, or his post or party, to go in search of plunder ; or
- (i) quits his guard, picket, party or patrol without being regularly relieved or without leave; or
- (j) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or
- (k) intentionally causes or spreads a false alarm in action, camp, garrison or quarters ;

shall be punished with life imprisonment or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay or with fine to that extent in addition to such sentence or imprisonment, as the case may be, as may be passed upon him under this Section.

Punishment for other heinous offences :-

12. A Special Armed Police Officer who -

- (a) is in a state of intoxication when on or for any duty or on parade or on the line of march; or
- (b) strikes or attempts to force any sentry; or
- (c) being in command of a guard, picket or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or
- (d) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or
- (e) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (f) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or
- (g) strikes or otherwise ill-uses any Special Armed Police Officer subordinate to him in rank or position; or
- (h) being in command at any post or on the march, and receiving a complaint that anyone under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority; or
- (i) designedly or through neglect injures or loses, or fraudulently disposes of his arms, clothes, tools, equipments, ammunition, accoutrements or Special Armed Police necessaries, or any such articles entrusted to him or belonging to any other person; or
- (j) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or
- (k) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

Who, while not in active service,-

- (l) disobeys the lawful command of his superior officer; or
- (m) plunders, destroys, or damages any property of any kind; or
- (n) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months pay, or with both.

Minor punishment :-

13. (1) A Commandant or Deputy Commandant, or an officer not being below the rank of Inspector (Armed) commanding a separate detachment or an outpost or in temporary command at the headquarters of a Battalion during the absence of the Commandant and Deputy Commandant, may without a formal trial award to any Special Armed Police officer who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say -
- (a) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;
 - (b) Punishment drill, extra guard, fatigue, or other duty, not exceeding thirty days in duration, with or without confinement to quarters.
- (2) Any one of these punishments may be awarded separately or in combination with anyone or more of the others.

Saving of prosecution under other laws :-

14. Nothing in this Act shall prevent any person from being prosecuted under the Bihar Police Act, 2007, or under any other enactment for the time being in force for any act or omission punishable thereunder.

Provided that no person shall be punished twice for the same offence.

Procedure for court taking cognizance of offence(s) :-

15. No court shall take cognizance of any offence under this Act when the accused person is a special armed police officer except on a report in writing of the facts constituting such offence and with the previous sanction of an officer authorised by the Government in this behalf.

Disciplinary and other powers of Commandant of Special Armed Police otherwise than in respect of Special Armed Police :-

16. Subject to such rules as the State Government may notify in this behalf, a Commandant of the Special Armed Police shall have, with respect to Police officers appointed to the Bihar Police Force constituted under Sec. 3 of the Bihar Police Act, 2007, who are not Special Armed Police Officers, the same disciplinary powers as a District Superintendent of Police has with respect to them. The rules so made may prescribe the procedure to be followed while exercising such disciplinary powers and should be based on the principles of natural justice.

Protection for the acts of members of Special Armed Police :-

17. In any suit or proceedings against any member of the Special Armed Police for any act done by him in pursuance of an order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such order.

Powers to make rules :-

18. (1) The Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for Special Armed Police officers on the following matters, namely,

(a) Recruitment, classes and grades, conditions of service, pay and allowances, retirements benefits and matters connected therewith;

(b) Discipline and Conduct

(c) Powers and Duties of officers authorized to exercise any functions by or under this Act

(d) For taking into legal custody, for specifying the prison in which a person arrested/convicted in any such case may be confined and the disposal of criminal cases arising under this Act.

(3) Until the Rules in this regard are made under this Act, existing provisions of the Bihar and Orissa Military Police Manual, 1933, and the rules, regulations, orders etc. issued from time to time by the Government shall continue to be in force to the extent they are not in conflict with the provisions of this Act.

Rules to be laid before the House :-

19. (a) Every rule framed under this Act shall be published in the Gazette.

(b) All rules made by the State Government under this Act shall be laid as soon as may be after they are made, before each house of the State Legislature while it is in session, for a total period of thirty days, which may be comprised in one session or more successive sessions. If the State Legislature agrees to modify the rule or the legislature agrees 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 done under that rule.

Power to issue orders :-

20. The Director General of Police, Bihar who is the head of the Police Force of the State, may in the discharge of his functions under this Act issue orders from time to time consistent with the provisions of this Act and the rules made thereunder.

Provisions of this Act to override other laws :-

21. (1) The provisions of this Act shall have overriding effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

(2) References in any Act, rule, notification or order to the Bengal Military Police Act, 1892 shall, on the commencement of this Act, be construed as reference to the Bihar Special Armed Police Act, 2021.

Power to remove difficulties :-

22. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, as provided in clause (b) of Section 19 of the Act.

Repeal and saving :-

23. (1) The Bengal Military Police Act, 1892 (V of 1892), as applicable to the State of Bihar, is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Act, insofar as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force until superseded by anything done or any action taken under this Act.

SCHEDULE I

[See section 3(3)]

The Bihar Military Police Battalions in existence at the time of commencement of this Act are to be called as under

1. Bihar Military Police – 1 to be called Bihar Special Armed Police -1
2. Bihar Military Police – 2 to be called Bihar Special Armed Police -2
3. Bihar Military Police – 3 to be called Bihar Special Armed Police -3
4. Bihar Military Police – 4 (IRB-1) to be called Bihar Special Armed Police -4
5. Bihar Military Police – 5 to be called Bihar Special Armed Police -5
6. Bihar Military Police – 6 to be called Bihar Special Armed Police -6
7. Bihar Military Police – 7 to be called Bihar Special Armed Police -7
8. Bihar Military Police – 8 to be called Bihar Special Armed Police -8
9. Bihar Military Police – 9 to be called Bihar Special Armed Police -9
10. Bihar Military Police – 10 to be called Bihar Special Armed Police -10
11. Bihar Military Police – 11 to be called Bihar Special Armed Police -11
12. Bihar Military Police – 12 (IRB-2) to be called Bihar Special Armed Police -12
13. Bihar Military Police – 13 to be called Bihar Special Armed Police -13
14. Bihar Military Police – 14 to be called Bihar Special Armed Police -14
15. Bihar Military Police – 15 (IRB-3) to be called Bihar Special Armed Police -15
16. Bihar Military Police – 16 to be called Bihar Special Armed Police -16
17. Mahila Sashatra Vahini to be called Bihar Special Armed Police (Mahila)
18. Bihar Swabhimani Police Battalion to be called Bihar Swabhimani Special Armed Police
19. Mounted Military Police to be called Mounted Special Armed Police
20. Special India Reserve Battalion to be called Bihar Special Armed Police- 17
21. State Industrial Security Force -1 to be called Bihar Special Armed Police-18
22. State Industrial Security Force -2 to be called Bihar Special Armed Police-19

SCHEDULE II

STATEMENT

[See Section 6]

After you have served for three years in the Special Armed Police, you may, at any time when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to the Commandant of Special Armed Police in which you may be serving and you will be granted your discharge after two months from the date of your application unless your discharge would cause the vacancies in the Special Armed Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Special Armed Police ceases, when you may make your application in the manner here in before.

In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose with respect to your service previous to your discharge.

(Signature of the Special Armed Police Officer in acknowledgment of the above having been read to him)

A.B.

Signed in my presence after I had ascertained that A.B. understood the purport of what he signed

C.D.

Commandant or Deputy Commandant

SCHEDULE III

[See section 5(1)]

There shall be the following classes of Special Armed Police Officer which take rank in the order mentioned below and includes any equivalent rank(s) as prescribed.

- 1) CHIEF INSPECTOR (ARMED)
- 2) INSPECTOR (ARMED)
- 3) RESALDAR
- 4) SUB-INSPECTOR (ARMED)
- 5) ASSISTANT SUB INSPECTOR (ARMED)
- 6) HAVILDAR
- 7) SEPOY
- 8) BUGLERS
