

L. A. BILL No. XX OF 2024.

A BILL

to provide for more effective prevention of certain unlawful activities of individuals and organizations and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to enact a new law to provide for more effective prevention of certain unlawful activities of individuals and organizations and for matters connected therewith or incidental thereto; it is hereby enacted in the Seventy-fifth Year of the Republic of India, as follows :—

1. This Act may be called the Maharashtra Special Public Security Act, 2024. Short title.

Definitions.

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

- (a) "Advisory Board" means the Advisory Board constituted under section 5 ;
- (b) "Government" means the Government of Maharashtra ;
- (c) "notification" means notification published in the *Official Gazette* and the word "notified" shall be construed accordingly ;
- (d) "organization" means any combination, body or group of persons, whether known by any distinctive name or not, and whether registered under any relevant law or not, and whether governed by any written constitution or not ;
- (e) "prescribed" means prescribed by rules made under this Act ;
- (f) "unlawful activity" means any action taken by an individual or organization whether by committing an act or by words either spoken or written or by signs or by visible representation or otherwise,—
- (i) which constitute a danger or menace to public order, peace and tranquility; or
- (ii) which interferes or tends to interfere with maintenance of public order; or
- (iii) which interferes or tends to interfere with the administration of law or its established institutions and personnel; or
- (iv) which is designed to overawe by criminal force or show of criminal force or otherwise to any public servant including the Forces of the State Government or the Central Government in exercise of the lawful powers of such public servant and Forces ; or
- (v) of indulging in or propagating, acts of violence, vandalism or other acts generating fear and apprehension in the public, or indulging in or encouraging, the use of firearms, explosives or other devices or disrupting communications by rail, road, air or water; or
- (vi) of encouraging or preaching disobedience to established law and its institutions; or
- (vii) of collecting money or goods to carry out any one or more of the unlawful activities mentioned above;
- (g) "unlawful organization" means any organization which indulges in or has in pursuance of its objects abets or assists or gives aid, or encourages directly or indirectly through any medium, devices or otherwise, any unlawful activity.

Declaration of
an organization
as an unlawful
organization.

3. (1) If the Government is of opinion that any organization is, or has become an unlawful organization, it may, by notification in the *Official Gazette*, declare such an organization to be an unlawful organization.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Government may consider necessary :

Provided that, nothing in this sub-section shall require the Government
5 to disclose any fact which it considers to be against the public interest.

(3) No such notification shall have effect until the Advisory Board has, by report made under section 6, confirmed the declaration made in such notification :

Provided that, if the State Government is of the opinion that
10 circumstances exist which render it necessary for the Government to declare an organization to be an unlawful organization with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any report of the Advisory Board that may be made under section 6, have effect from the date of its publication in the *Official Gazette*.

15 (4) Every such notification shall, in addition to its publication in the *Official Gazette*, be served where such an unlawful organization has a registered office, by sending the same through registered post or electronic means or by serving a copy to any office bearer in such registered office, but if in case any office bearer is not available or refuses to receive the same,
20 the notification shall be affixed to some conspicuous part of the office of the organization; and where the organization does not have a registered office, the notification shall be published in any two daily newspapers having circulation in the State.

(5) Subject to the provisions of sub-section (2), a notification issued
25 under this section shall, if the declaration made therein is confirmed by the Advisory Board by the report made under section 6, remain in force for a period of one year from the date on which the notification becomes effective and may be extended for such further period not exceeding one year at a time, as may be deemed necessary after reviewing the position.

30 (6) Notwithstanding anything contained in sub-section (1), the State Government may, either on its own motion or on application of any aggrieved organization, at any time, revoke the notification issued under this section, whether or not the declaration made therein has been confirmed by the Advisory Board.

35 4. (1) Any organization declared to be an unlawful organization under section 3 may make a representation to the Government within fifteen days from the date of publication of the notification or from the date of receipt or affixture thereof, as specified in sub-section (4) of section 3, whichever is later and the Government shall place such representation before the
40 Advisory Board for its consideration.

Representation
by organization.

(2) Such an organization may request for personal hearing before the Advisory Board.

Constitution of
Advisory Board.

5. (1) The State Government shall constitute, as and when necessary, an Advisory Board for the purposes of this Act.

(2) The Advisory Board shall, consist of three persons who are or have been or qualified to be appointed as judge of the High Court. The Government shall appoint the members and designate one of them as the Chairperson. 5

(3) The term and other conditions of service of the Chairperson and members shall be such as may be prescribed.

Procedure of
Advisory Board.

6. (1) Where any organization has been declared as an unlawful organization by a notification issued under section 3, the Government shall, within six weeks from the date of publication of such notification in the *Official Gazette*, make a reference to the Advisory Board for consideration and also provide a copy of the notification, supporting material and the representation submitted by the unlawful organization, if any. 10

(2) The Advisory Board shall, after considering all the material placed before it and after calling for such further information, as it may consider necessary, from the Government or from any office bearer or members of the concerned organization, and after giving an opportunity of personal hearing to the authorized office bearer of the organization, submit its report to the Government within three months from the date of receipt of reference from the Government. 15 20

(3) Where the organization seeks personal hearing, an intimation specifying the date and time of hearing shall be sent to the address mentioned in the representation of the organization.

(4) The Advisory Board shall decide whether or not there is sufficient cause for declaring the organization to be an unlawful organization and make a report as it may deem fit, either confirming the declaration made in the notification or cancelling the same. 25

(5) The Advisory Board shall, for the purpose of exercising power under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely :- 30 5 of 1908.

(a) the summoning and enforcing the attendance of any witness and examining him on oath ;

(b) the discovery and production of any document or other material object producible as evidence ; 35

(c) the reception of evidence on affidavits ;

(d) the requisitioning of any public record from any court or office ;

(e) the issuing of any commission for the examination of witnesses. 40

7. (1) If the Advisory Board confirms the declaration made under the notification, the Government shall confirm the notification by an order and continue the same for such period as specified in sub-section (5) of section 3.

Action upon
report of
Advisory Board.

(2) If the Advisory Board is of the opinion that there is no sufficient cause for the issuance of a notification, the Government shall revoke the notification forthwith.

8. (1) Whoever, is a member of an unlawful organization or takes part in meetings or activities of any such organization or contributes or receives or solicits any contribution for the purpose of any such organization, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine upto three lakh rupees.

Offences.

(2) Whoever, not being a member of an unlawful organization in any manner, contributes or receives or solicits any contribution or aid for such organization or harbours any member of such organization, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to fine upto two lakhs rupees.

(3) Whoever, manages or assists in the management of an unlawful organization or promotes or assists in promoting a meeting of any such organization or any member thereof or in any way indulges in any unlawful activity of such organization in any manner or through whatever medium or device, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine upto three lakhs rupees.

(4) Whoever, commits or abets or attempts to commit or plans to commit any unlawful activity of such unlawful organization, shall be punished with imprisonment for a term which may extend to seven years and also be liable to fine upto five lakhs rupees.

9. (1) Where an organization has been declared unlawful organization under section 3, the District Magistrate or the Commissioner of Police, as the case may be, within their respective jurisdiction, may notify any place which in his opinion is used for the activities of such unlawful organization.

Powers to notify
and take
possession of
places used for
purpose of
unlawful
activities.

Explanation.—For the purpose of this section, place includes a house or a building or part thereof or a tent or a vessel.

(2) When any place is notified under sub-section (1), the District Magistrate or the Commissioner of Police or any officer authorized in this behalf in writing by him may take possession of notified place and evict therefrom any person found therein and the District Magistrate or the Commissioner of Police shall forthwith make a report of taking of possession to the Government :

Provided that, where any such place contains any apartment occupied by women or children, reasonable time and facilities shall be provided for their withdrawal with least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall remain in possession of the Government, as long as the notification issued under section 3 is in force or such earlier period as the Government decides.

Movable
property found
in notified place.

10. (1) The District Magistrate or the Commissioner of Police or any officer authorized by him while taking possession of notified place shall also take possession of movable property including moneys, securities or other assets found therein and shall make a list thereof in the presence of two respectable witnesses. 5

(2) If in the opinion of the District Magistrate or the Commissioner of Police, any article specified in the list is or may be used for or in aid of the purposes of the unlawful organization, he may proceed, subject to the provisions hereinafter contained in this section, to order such articles to be forfeited to the Government. 10

(3) All other articles specified in the list shall be delivered to the person whom the District Magistrate or the Commissioner of Police considers to be entitled to possession thereof and if no such person is found entitled thereto, it shall be disposed of in such manner as he may direct.

(4) The District Magistrate or the Commissioner of Police shall publish 15 a notice in two local newspapers and one newspaper having circulation in the whole of the State, one of which shall be in the Marathi language and shall also affix a copy of such notice to the conspicuous part of the place wherefrom such property was taken possession of, specifying the articles which are proposed to be forfeited and calling upon any person claiming 20 that any article is not liable for forfeiture, to submit in writing within fifteen days from the date of publication of notice any representation he desires to make against forfeiture of the article.

(5) The District Magistrate or the Commissioner of Police shall consider the representation and pass such orders as he deems fit, if the decision is 25 to forfeit the article he shall give reasons therefor.

(6) The person who made the representation may file an appeal against the order made under sub-section (5) to the Government within thirty days from the date of receipt of the order. The Government may pass such orders thereon as it deems fit after giving an opportunity to the appellant. Such 30 order of the Government in appeal shall be final.

(7) The Government may, in its discretion at any time *suo-moto* call for and examine the records of any order passed by the District Magistrate or the Commissioner of Police under sub-section (5), for the purpose of satisfying itself as to the legality, correctness or propriety thereof and pass 35 any order with reference thereto as it may deem fit.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate or the Commissioner of Police may, if he thinks it expedient, order the immediate sale thereof and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of the 40 other articles.

Powers to forfeit
funds of an
unlawful
organization.

11. (1) Where the Government is satisfied after such enquiry as it may think fit, that any moneys, securities or other assets are being used or intended to be used for the purpose of an unlawful organization, the Government may, by order in writing, declare such moneys, securities or 45 other assets to whomsoever they belong to, be forfeited to the Government.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the moneys, securities or other assets and on the service of such copy, such person shall deposit or deliver the moneys, securities or other assets to the officer as specified in the order of the Government :

5 Provided that, in case of moneys or securities, a copy of the order may be endorsed for execution to such officers as the Government may select and such officer shall have power to enter upon and search for such moneys or securities in any premises where they may reasonably be suspected to be and to seize the same.

10 (3) Before an order of forfeiture is made under sub-section (1), the Government shall give a written notice to the person, if any, in whose custody the moneys, securities or others assets are found of its intention to forfeit and such person may make a representation to the Government against the proposed order of forfeiture, within fifteen days of the receipt of the notice.
15 The Government shall, after considering the representation, if any, received from the affected person, pass such orders as it deems fit.

(4) Where the Government has reason to believe that any person has custody of any moneys, securities or other assets which are being used or are intended to be used for the purpose of an unlawful organization, the
20 Government may, by an order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same. A copy of such order shall be served upon the person to whom it is directed.

(5) The Government may endorse a copy of an order under sub-section
25 (4) for investigation to any officer it may select and such copy shall be deemed to be a warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person or any officer, agent or servant or such person, search for moneys, securities or other assets and make inquiry from such person
30 touching the origin of and dealings in any moneys, securities or other assets which the investigating officer may suspect are being used or are intended to be used for the purpose of an unlawful organization.

46 of 2023.35 (6) A copy of an order under this section may be served in the manner provided in the Bharatiya Nagarik Suraksha Sanhita, 2023, for the service of summons or where the person to be served is a corporation, company, bank or organization of person, it may be served on any Secretary, Director or other officer or person concerned with the management thereof, or by leaving it with or sending it by post addressed to the corporation, company bank or organization at its registered office, or where there is no registered
40 office at the place where it carries on business. Where the Government is satisfied in the circumstances it is not reasonably practicable to follow such procedure, it may cause the order to be published in any local newspaper.

(7) Where an order of forfeiture is made under sub-section (1) in respect of any moneys, securities or other assets in respect of which a prohibitory
45 order has been made under sub-section (4), such order of forfeiture shall have effect from the date of the prohibitory orders, and the person to whom the prohibitory order was directed, shall pay or deliver the whole of the moneys, securities or other assets forfeited, to the officers specified in the order of the Government.

(8) Where any person liable under this section to pay or deliver any moneys, securities or other assets upon the order of the Government, refuses or fails to comply with any direction of the Government in this behalf, the Government may recover from such person, as arrears of land revenue or as a fine, the amount of such money or other financial assets or the market value of such securities. 5

(9) In this section, securities includes a document whereby any person acknowledges that he is under legal liability to pay money, or whereunder any person obtains a legal right to the payment of the money and the market value of any security means the value as fixed by any officer or person 10 deputed by the Government in this behalf.

(10) Except so far as is necessary for the purpose of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (5) shall be disclosed by any officer of the Government without its consent. 15

(11) The Government may, by order, delegate its power under this section to any officer not below the rank of a District Magistrate or the Commissioner of Police and likewise withdraw the same.

(12) The Government may, in its discretion at any time, either *suo-moto* or on an application made by the person who made the representation, call 20 for and examine the record of any order passed by the District Magistrate or the Commissioner of Police, under sub-section (1) for the purpose of satisfying itself as to the legality, correctness or propriety thereof and pass such order in reference thereto, as it may deems fit:

Provided that, no order under this sub-section shall be passed by the 25 Government unless the party likely to be affected thereby has had an opportunity of making a representation.

Revision. 12. (1) A revision petition may be filed before the High Court against any order passed by the Government, under sub-section (1) of section 7 confirming the notification issued under sub-section (1) of section 3 or 30 against any order passed under sub-section (5) of section 3 extending the period of notification or against any order of forfeiture under sub-section (1) of section 11, questioning the legality, correctness or propriety thereof.

(2) A revision petition under this section shall be filed within a period of thirty days from the date of receipt of any order referred to in sub-section 35 (1).

Trespass upon notified place. 13. Any person, who enters or remains upon a notified place without the permission of the District Magistrate or the Commissioner of Police or of an officer authorized in this behalf by the District Magistrate or the Commissioner of Police, shall be deemed to have committed an offence of 40 criminal trespass.

Bar of jurisdiction. 14. Save as otherwise expressly provided in this Act, and without prejudice to the jurisdiction and powers of the Supreme Court and the High Court under the Constitution of India, no proceeding taken under this Act by the Government or the District Magistrate or the Commissioner of Police, 45 or any officer authorized in this behalf by the Government or the District

Magistrate or the Commissioner of Police, shall be called in question in any court in any suit or proceeding or application or by way of appeal or revision and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by
5 or under this Act.

15. No civil or criminal proceeding shall be instituted against any person for anything done in good faith or intended to be done under this Act or against the Government or any person acting on behalf of or by the authority of the Government, for any loss or damage caused to or in respect
10 of any property, whereof possession has been taken by the Government under this Act.

Protection of action taken in good faith.

16. (1) All offences under this Act shall be cognizable and non-bailable.

Cognizance and investigation of offences.

(2) All offences under this Act shall be investigated by the Police Officer not below the rank of a Sub-Inspector.

15 (3) All offences under this Act committed or abetted or attempted or designed to be committed shall only be registered under the written permission by an officer not below the rank of the Deputy Inspector General of Police, who shall also specify the Investigating Officer who shall investigate the case as per provisions of this Act.

20 (4) No court shall take cognizance of any such offence except on the report of an officer not below the rank of the Additional Director General of Police.

17. An organization shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title by any oral or
25 written declaration but shall be deemed to exist so long as such organization or any member thereof is actually engaged in or continuing in any manner in any unlawful activity.

Existence of organization.

18. (1) The Government may, by notification in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

Power to make rules.

30 (2) Every rule made under this Act shall be laid, as soon as may be, after it is 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 in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both
35 Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, 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
40 to the validity of anything previously done or omitted to be done thereunder.

STATEMENT OF OBJECTS AND REASONS

The menace of naxalism is not only limited to remote areas of the naxal affected States but its presence is increasing in the urban areas also through the naxal frontal organizations. The spread of active frontal organizations of the naxal groups gives constant and effective support in terms of logistics and safe refuge to their armed cadres. The seized literature of naxals shows "safe houses" and "urban dens" of the Maoist network in the cities of the State of Maharashtra. The activities of naxal organizations or similar organizations through their united front are creating unrest among common masses to propagate their ideology of armed rebellion against the constitutional mandate and disrupts public order in the State.

2. The unlawful activities of such frontal organizations need to be controlled by effective legal means. The existing laws are ineffective and inadequate to tackle this menace of naxalism.

The Ministry of Home Affairs, Government of India has, in various meetings, issued directions, from time to time, for implementation mechanism for countering activities of such organizations in urban areas and choking of flow of funds to them. The Home Ministry has, in the guidelines for Security Related Expenditure to naxal affected States, advised for enactment of legislation by the State to tackle unlawful activities of naxal extremists organizations or similar organizations.

3. The States of Chattisgarh, Telangana, Andhra Pradesh and Odisha have enacted the Public Security Acts for more effective prevention of unlawful activities of such organizations and banned 48 frontal organizations. In the absence of similar law in the State of Maharashtra such organizations are active in the State. The Government, therefore, considers it expedient to enact a special law for more effective prevention of unlawful activities of such organizations on the lines of Public Security Acts enacted by other naxal affected States.

4. The Bill seeks to achieve the above objectives.

Mumbai,

Dated 9th July, 2024.

DEVENDRA FADNAVIS,

Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of a legislative power, namely :—

Clause 3(1).— Under this clause, power is taken to the State Government, to declare an organization to be unlawful, by notification in the *Official Gazette*.

Clause 5(3).— Under this clause, power is taken to the State Government, to prescribe by rules the terms and other conditions of service of Chairperson and Members of the Advisory Board.

Clause 9(1).— Under this clause, power is taken to the District Magistrate or Commissioner of Police, to notify any place which in his opinion is used for the activities of an unlawful organization.

Clause 18(1).— Under this clause, power is taken to the State Government to make rules for carrying into effect the purposes of this Act, by issuing a notification in the *Official Gazette*.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of the Advisory Board which shall consist of three members and also provides for the term and other conditions of service of Chairperson and members as may be prescribed by the State Government.

The Bill on its enactment as an Act of the State Legislature would involve recurring expenditure from the Consolidated Fund of the State for the constitution of the Advisory Board. However, it is not possible at this stage to give an estimate of actual recurring expenditure that may have to be incurred in this behalf.

**GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF
THE CONSTITUTION OF INDIA**

(Copy of Government of Maharashtra Order,
Law and Judiciary Department)

In exercise of the power conferred upon him by clause (3) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to both Houses of the State Legislature, the Consideration of the Maharashtra Special Public Security Bill, 2024.