

KARNATAKA ORDINANCE NO. 2 OF 2012
THE KARNATAKA POLICE (AMENDMENT) ORDINANCE, 2012
Arrangement of Sections

Sections:

1. Short title, extent and commencement
2. Substitution of section 6
3. Insertion of new chapter IIA

KARNATAKA ORDINANCE NO. 2 OF 2012
THE KARNATAKA POLICE (AMENDMENT) ORDINANCE, 2012

(Promulgated by the Governor of Karnataka in the sixty-third year of the Republic of India and

First published in the Karnataka Gazette Extra-ordinary on the 1st day of June, 2012)

An Ordinance further to amend the Karnataka Police Act, 1963.

Whereas both the Houses of the state legislature are not in session and His Excellency the Governor of Karnataka is satisfied that the circumstances exist which render it necessary for him to take immediate action, further to amend the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964) for the purposes hereinafter appearing;

Now, therefore in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, His Excellency the Governor of Karnataka is pleased to promulgate the following Ordinance, namely:-

1. Short title, extent and commencement.- (1) This Ordinance may be called the Karnataka Police (Amendment) Ordinance, 2012.

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

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Substitution of section 6.- In the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964) (hereinafter referred to as the principal Act), for section 6, the following shall be substituted, namely:-

“6. Director General and Inspector General of Police.- (1) For the direction, control and supervision of the Police service, the Government shall appoint a Director General and Inspector General of Police, who shall subject to the control of the Government, exercise such powers and perform such functions and duties and shall have such responsibilities and such authority as may be provided by or under this Act.

(2) The Director General and Inspector General of Police shall be selected by the State Government from amongst the three senior most officers of the Police Department who have

been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force.

(3) The Director General and Inspector General of Police so appointed shall have a tenure of not less than two years subject to superannuation:

Provided that the Government may transfer the Director General and Inspector General of Police before completion of two years of his tenure, if he is,—

(a) convicted by a court of law in a criminal case or where charges have been framed against him by a court in a case involving corruption or offences which amounts to moral turpitude; or

(b) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions as the Director General and Inspector General of police; or

(c) appointed to another post with his consent; or

(d) imposed punishment of dismissal, removal, or compulsory retirement from service or of reduction to a lower post, awarded under the provisions of the All India Services (Discipline and Appeal) Rules, 1969 or any other relevant rule; or

(e) under suspension from service; or

(f) when a prima-facie case of misconduct or gross negligence is established after a preliminary enquiry.

(4) The Government, may by notification, delegate such powers or give such directions as it deems necessary to the Director General and Inspector General of Police who shall exercise the powers and discharge the functions so entrusted to him by or under this Act.”

3. Insertion of new chapter IIA.- In the principal Act, after Chapter II and entries relating thereto, the following new chapter shall be inserted, namely:-

“CHAPTER - IIA

ESTABLISHMENT OF STATE SECURITY COMMISSION, POLICE ESTABLISHMENT BOARD, STATE POLICE COMPLAINT AUTHORITY AND DISTRICT POLICE COMPLAINT AUTHORITY

20A. The State Security Commission.- (1) The State Government may, by notification in the official Gazette, establish a Commission to be called the State Security Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission, by or under this Act.

(2) The State Security Commission shall consist of the following members, namely:-

(a) The Chief Minister - Chairman

(b) The Home Minister - Vice Chairman

(c) Leader of the Opposition
in the Legislative Assembly - Member

(d) A Retired judge of the High Court
nominated by the Chief justice of Karnataka - Member

(e) Chief Secretary to Government - Member

- (f) Additional Chief Secretary/Principal Secretary,
in charge of Home Department - Member
- (g) Director General of Police - Member
Secretary

(3) The terms and conditions of appointment and allowance payable thereof to the retired judge shall be such as may be prescribed.

(4) The functions of the Commission shall include,-

- (a) laying down the broad policy guidelines for ensuring that the State Police always acts according to the laws of the land and the constitution of India;
- (b) laying down the broad principles and giving directions for the performance of the preventive tasks and service oriented functions of the police;
- (c) evaluation of the performance of the State Police and submission of report thereon to the Government for placing before the State Legislature; and
- (d) any other functions as may be prescribed.

(5) The recommendations of the Commission shall be binding on the Government.

20B. Police Establishment Board.- (1) The State Government shall, by notification in the official Gazette, establish a Police Establishment Board with the Director General and Inspector General of Police as Chairman and three senior most police officers not below the rank of Additional Director General of Police working within the police department as members. Additional Director General of Police (Administration) shall be the convener.

(2) The functions of the Police Establishment Board shall be as follows, namely:-

- (a) Subject to the provisions of section 20F, it shall decide on transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police.
- (b) It shall also make recommendation for promotion to the rank of Deputy Superintendents of Police after duly verifying reservation and quota prescribed for direct recruitment and promotion. For this purpose a separate register shall be maintained by Director General and Inspector General of Police, as per orders or guidelines prescribed by Government from time to time.
- (c) It shall make appropriate recommendations to the Government regarding postings and transfers of officers of and above the rank of Additional Superintendent of Police.
- (d) Generally review the functioning of the police force in the State.
- (e) Perform such other functions as may be prescribed.

(3) Subject to its control and directions, the Police Establishment Board may authorize the Superintendent of Police to effect transfers of Group C and D officials within the district and the Inspector General of Police within the Range.

(4) The Government may modify the decision of the Police Establishment Board in exceptional cases only after recording its reasons for doing so. The Government shall give due weightage and shall normally accept the recommendations made by the Board, regarding postings and transfers of officers of and above the rank of Additional Superintendent of Police.

(5) The transfers decided and effected by the Police establishment Board shall be strictly in accordance with section 20F and the general transfer guidelines issued by Government from time to time.

(6) The cases pertaining to transfer of Police officers or personnel on complaints shall be considered by the Police Establishment Board and action taken in this regard shall be reported to Government.

(7) Copies of proceedings of the Police Establishment Board and the transfer orders issued thereon shall be sent to Government forthwith.

20C. State Police Complaints Authority.- (1) The State Government shall, by notification in the official Gazette, constitute the State Police Complaints Authority consisting of three persons, namely.-

(i) One shall be the Chairman selected from among the panel of three retired High Court Judges recommended by the Chief Justice of High Court of Karnataka.

(ii) Among the two other members, one member shall be from among the retired Civil Service who shall be an officer not below the rank of Principal Secretary to Government and the other member shall be from Civil Society. The Civil Society member shall be chosen from amongst the panel of names recommended by the Lokayukta, who shall be a person of repute who has rendered humanitarian service in the field of education, health, upliftment of the poor etc. and had not aligned himself with any political party or ideological group.

(2) A person shall be disqualified for being appointed as member, if he,—

- (a) has directly or indirectly associated himself with any Anti Social or Anti National group or body;
- (b) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
- (c) is an undischarged insolvent; or
- (d) is of unsound mind and stands so declared by a competent court;
- (e) has such other disqualifications as may be prescribed.

(3) Every member of the State Police Complaints Authority shall hold office for a period of three years.

(4) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the State Police Complaints Authority shall be such as may be prescribed.

(5) The Government shall provide such number of staff as is necessary for assisting the functions of the State Police Complaints Authority.

(6) The State Police Complaints Authority shall look into complaints against officers of the rank of Superintendent of Police and above, including Additional Superintendent of Police, and take cognizance of allegations of serious misconduct by the police officers which would include incidents involving death, grievous hurt or rape in police custody.

(7) The State Police Complaints Authority shall inquire into allegations of serious misconduct against police officers, as detailed below, either *suo moto* or on a complaint received from any of the following, namely:-

- (a) a victim or any person on his behalf; or
- (b) the National or the State Human Rights Commission; or
- (c) the police; or
- (d) any other source.

Explanation.- "Serious misconduct" for the purpose of this chapter shall mean any act or omission of a police officer that leads to or amounts to,-

- (a) death in police custody; or
- (b) grievous hurt, as defined in section 320 of the Indian Penal Code, 1860 ; or
- (c) rape or attempt to commit rape; or
- (d) arrest or detention without due process of law.

Explanation.- "Misconduct" in this context shall mean any willful breach or neglect by a police officer of any law, rule, regulation applicable to the police that adversely affects the rights of any member of the public, excluding "serious misconduct" as defined in sub-section (7).

(8) In the cases *suo moto* inquired by the State police Complaints Authority, it may, issue notice to Director General and Inspector General of Police and direct him to file his views on the complaint during the enquiry. The State Police Complaints Authority may take into account the views and facts furnished by the Director General and Inspector General of Police that may have a material bearing on the cases.

(9) On completion of the enquiry, if the allegations are proved partly or fully, the State Police Complaints Authority shall forward its report to the disciplinary authority for appropriate action against the accused officers.

(10) The State Police Complaints authority shall also supervise, monitor and control the functioning of District Police Complaints Authorities. It shall compile Annual Report of the functioning of State Police Complaints Authority and District Police Complaints Authorities and submit to the Government. The annual report shall contain,-

- (a) the numbers and types of cases of "serious misconduct" and "misconduct" considered by the State Police Complaints Authority during the year;

- (b) the number and types of cases of "serious misconduct" referred to it by the complainants upon being dissatisfied by the departmental inquiry into his complaint;
- (c) the number and types of cases referred to above in which advice or direction was issued by it to the police for further action;
- (d) such other related Administrative and financial matters as may be prescribed.

20D. District Police Complaints Authority.- (1) The Government shall in consultation with State Police Complaints Authority, by notification in the official Gazette, constitute the District Police Complaints Authority under the chairmanship of the Regional Commissioner of the Region and two other members, one from the retired Civil Service and the other from the Civil Society. The member of retired Civil Service shall be an officer not below the rank of Joint Secretary to Government and the other member shall be from the Civil Society. The Civil Society member shall be chosen from amongst the panel of names recommended by the Lokayukta, who shall be a person of repute who has rendered humanitarian service in the field of education, Health, upliftment of the poor etc. and had not aligned himself with any political party or ideological group.

(2) A person shall be disqualified for being appointed as member if he,—

- (a) has directly or indirectly associated himself with any Anti Social or Anti National group or body;
- (b) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
- (c) is an undischarged insolvent; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) has such other disqualifications as may be prescribed by the State Government.

(3) Every member of the District Police Complaints Authority other than the ex-officio member shall hold office for a period of three years.

(4) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the District police Complaints Authority shall be such as may be prescribed.

(5) It shall be the duty of the district police complaints authority to ensure that all its members and their staff are regularly trained, interalia about,—

- (a) technical and legal issues related to departmental inquiries;
- (b) specific forms of human rights violation; and
- (c) appropriate handling of victims of police abuse.

(6) Necessary staff required for the functioning of the District Police Complaints Authority may be provided by Government.

(7) The District Police Complaints Authority shall look into complaints against police officers of and below the rank of Deputy Superintendent of Police and take cognizance of allegations of

serious misconduct by the police officers, which would include incidents involving death, grievous hurt or rape in police custody.

(8) The District Police Complaints Authority shall,-

- (a) have the power to enquire into misconduct or abuse of power by or against police officers of and below the rank of Deputy Superintendent of Police. The Authority shall have the power to investigate any case itself or ask any other agency to investigate and submit a report. The District Police Complaints Authorities shall submit its report to the competent disciplinary authority for appropriate action against the accused officers;
- (b) if the complaint contains allegations against any police officer of or above the rank of Deputy Superintendent of Police the District Police Complaints Authority, shall forward the same to the State Complaints Authority, for further action;
- (c) forward the complaints of "serious misconduct", received directly by it, to the State Police Complaints Authority for further action;

(9) Each District police Complaints Authority shall prepare and submit to the State police complaints Authority an annual report before the end of each calendar year, inter alia, containing,-

- (a) the numbers and types of cases of "serious misconduct" and "misconduct" forwarded by it to the State Police Complaints Authority during the year;
- (b) the number and types of cases of "misconduct" referred to it by the complainants upon being dissatisfied by the departmental inquiry into his complaint;
- (c) the number and types of cases referred to in clause (b) above in which advice or direction was issued by it to the police for further action;
- (d) such other related administrative and financial matters as may be prescribed.

20E. Powers of the State Police Complaints Authority and District Police Complaints Authority.- The State Police Complaints Authority and District Police Complaints Authority shall, while investigating any matter under this Act, have all the powers of a civil court in trying a suit and in particular, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person from any part of the State and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy there of from any court or office;
- (e) issuing Commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed."

20F. Tenure of officers incharge of police stations, circle, sub-division, district and range
- (1) Subject to superannuation, the officers who are in operational duties and incharge of Police station, Circle, Sub-division may have a minimum tenure of one year.

Provided that any such officer may be transferred by the Police Establishment Board or by the Government in consultation with the Police Establishment Board, from his post before the expiry of the above minimum tenure consequent upon,-

- (a) promotion to a higher post; or
- (b) on conviction, or charges having been framed by a court of Law in a criminal offence;
- (c) imposition of punishment of dismissal, removal, discharge or compulsory retirement from service or of reduction to a lower rank awarded under the relevant discipline and Appeal Rules; or
- (d) suspension from the Service in accordance with the provisions of the said rules;
- (e) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions and duties; or
- (f) the need to fill up a vacancy caused by promotion, transfer, or retirement; or
- (g) on request of the officer concerned in writing.

Provided further that the Government may, after consultation with the Police Establishment Board, may transfer an officer before the expiry of his tenure on account of misconduct or gross negligence or an act of moral turpitude.

(2) Subject to superannuation, the Inspector General of Police in charge of Range or Superintendent of Police in charge of a District including Additional Superintendent of Police who are on operational duties in the field shall have a minimum tenure of one year.

Provided that the Government may transfer an officer of the above category within a period of one year for reasons of gross misconduct or negligence or an act of moral turpitude or under circumstances enumerated in the proviso to sub-section(1).

20G. Units in a Police station.- (1) The Police station shall be headed by a Station House officer not below the rank of an Inspector of Police or Sub-inspector of Police as the Government may by order determine.

- (2) In each police station there shall be two units namely,-
 - (a) one exclusively dealing with crime investigation consisting of such number of police officers as Director General of Police may by order determine to deal with detection and investigation of crime; and
 - (b) another unit dealing with Law and Order consisting of such number of police officers as may be determined by the Director General of Police by order, for the purpose of maintenance of Law and Order, traffic and prevention of crimes.

Provided that in any Police Station where the average annual number of crimes registered exceeds such number as prescribed, there shall be two Police Sub-Inspectors or Inspectors of Police, as the case may be one each for crime investigation and law and order units separately.

Provided further that the police personnel assigned to either of the unit shall not be deployed for any other purpose without the written permission of the Superintendent of Police of the District or the Commissioner of Police as the case may be."

H.R.BHARDWAJ
GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka

G.K. BOREGOWDA
Secretary to Government,
Department of Parliamentary Affairs
and Legislation.