

THE RAJASTHAN HOME GUARDS ACT, 1963 (Act, No 9 of 1963)

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THE RAJASTHAN HOME GUARDS ACT, 1963 (Act, No 9 of 1963)

(Received the assent of the Governor on the 5th April, 1963)

An Act to provide for the constitution of Home Guards for use in emergencies and for other purposes in the State of Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Fourteenth Year of the Republic of India as follows :-

- 1. Short title, extent and commencement-** (1) This Act may be called the Rajasthan Home Guards Act, 1963.
(2) It extends to the whole of the State of Rajasthan.
(3) It shall come into force at once.

2. Constitution of Home Guards and appointment of Commandant General, Deputy Commandant General and Commandant- (1) The State Government shall, by notification for such areas of the State as it may consider expedient, a volunteer body called the Home Guards the members of which shall discharge such functions and duties in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

(2) The State Government shall appoint a Commandant of each of the Home Guards constituted under sub-section (1)

(3) The State Government shall also appoint a Commandant General of Home Guards in whom shall vest the general supervision and control of Home Guards throughout the State of Rajasthan.

(4) The State Government may also appoint a Deputy Commandant General of Home Guards, who shall, subject to the supervision and control of the Commandant General, exercise the powers conferred on the Commandant General in such circumstances as the Commandant General may specify.

3. Appointment of the members - (1) Subject to the approval of the Commandant General, the Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve as may from time to time be determined by the State Government, and may appoint any such members to any office of Command in the Home Guards.

(2) Notwithstanding anything contained in sub-section (1) the Commandant General may, subject to the approval of the State Government appoint any such member to any post under his immediate control.

4. Functions and duties of members - (1) The Commandant may at any time call out a member of Home Guards for training or to discharge any of the functions or duties assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.

(2) The Commandant General may in an emergency call out a member of the Home Guards for training or to discharge any of the said functions or duties in any part of the State of Rajasthan.

5. Powers, protection and control - (1) A member of the Home Guards when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any Act for the time being in force.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions or duties as such member except with the previous sanction of the District Magistrate.

6. Control by officers of police force - (1) The member of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 10.

7. Certificate arms etc. to be delivered to person ceasing to be a member. - (1) Every person who for any reason ceases to be a member of the Home Guards shall

forthwith deliver up to the Commandant or to such person and at such place as the Commandant may direct, his certificate of appointment or of office and the arms, accoutrement, clothing and other necessities which have been furnished to him as such ember.

(2) Any Magistrate, and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of a Deputy Inspector General of Police may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing and other necessities not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act V of 1898), by a police officer or, if the Magistrate or the police officer issuing the warrant so directs, by any other person.

(3) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant General has become the property of the person to whom the same was furnished.

8. Punishment of members for neglect of duty etc.,- (1) The Commandant General shall have the authority to suspend, reduce or dismiss or fine, to an amount not exceeding fifty rupees, any member of the Home Guards, under his control, if such member, without reasonable cause, on being called out under section 4 neglects or refuses to obey such order or to discharge his functions and duties as a member of Home Guards or to obey any lawful order or direction given to him for the performance of his functions and duties or is guilty of any breach of discipline or misconduct. The commandant shall also have the authority to dismiss any member of the Home Guards on the ground of conduct which has led to his conviction for the commission of an offence involving moral turpitude or an offence against this Act. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(2) Notwithstanding anything contained in this Act, the Commandant shall have the authority to discharge any member of the Home Guards at any time subject to such conditions as may be prescribed if, in the opinion of the Commandant, the services of such member are no longer required. The Commandant General shall have the like authority in respect of any member of the Home Guards appointed to a post under his immediate control.

(3) When the Commandant General or the Commandant passes an order for suspending, reducing, dismissing or fining any member of the Home Guards under sub-section (1), he shall record such order or cause the same to be recorded, together with the reasons therefore and a note of the inquiry made, in writing, and no such order shall be passed by the Commandant General or the Commandant unless the person concerned is given an opportunity to be heard in his defence.

(4) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Commandant General and any such member aggrieved by an order of the Commandant General may appeal against such order to the State Government, within thirty days of the date on which he was served with notice of such order. The Commandant General or the State Government as the case may be, may pass such order as he or it thinks fit.

(5) The Commandant General or the State Government may at any time call for and examine the record of any order passed by the Commandant or Commandant General, respectively, under sub-section (1) or (2) for the purpose of satisfying himself or itself as to the legality or propriety of such order passed by the Commandant or the Commandant General, as the case may be, and may pass such order with reference thereto as he or it thinks fit.

(6) Every order if no appeal is made therefrom as hereinbefore provided and every order passed in appeal or revision under this section shall be final.

(7) Any fine imposed under this section may be recovered in the manner provided by the Code of Criminal Procedure, 1898 (Central Act V of 1898), for the recovery of fines imposed by a Court as if such fine were imposed by a Court.

(8) Any punishment inflicted on a member of the Home Guards under this section shall be in addition to the penalty to which such member is liable under section 9 or any other law for the time being in force.

9. Penalty.- (1) If any member of the Home Guards, on being called out under section 4, without reasonable excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(2) If any member of the Home Guards willfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provisions of sub-section (1) of section 7, he shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

(3) No proceedings shall be instituted under sub-section (1) or sub-section (2) without the previous sanction of the Commandant.

(4) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (1) or sub-section (2).

10. Rules.- (1) The State Government may make rules consistent with this Act.--

(a) providing for the exercise by any officer of the Home Guards of the powers conferred by section 4 on the Commandant and the Commandant General;

(b) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;

(c) regulating the organization, appointment, conditions of service, functions, discipline, arms accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service;

(d) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;

(e) generally for giving effect to the provisions of this Act.

(2) All rules finally made under this Act shall be laid, as soon as may be after they are so made, before the House of State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the house of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however they any such modification or annulment shall be without prejudice to the validity of anything previously done there under.

11. Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

12. Home Guards not disqualified from contesting elections to the State Legislature or local bodies.-(1) A member of the Home Guards shall not be disqualified for being chosen as, and for being a member of the Rajasthan Legislative Assembly merely by reason of the fact that he is member of the Home Guards.

(2) Notwithstanding anything contained to the contrary in any other law for the time being in force, a member of the Home Guards shall not be disqualified for being chosen as, and for being, a member of any local authority merely by reason of the fact that he is a member of the Home Guards.

13. Repeals.-(1) The Bombay Home Guards Act, 1947, in so far as it extends to the Abu area, and all other corresponding laws in force in any other part of the State are hereby repealed.

(2) The Rajasthan Home Guards Ordinance, 1962 (Rajasthan Ordinance 2 of 1962) and the Rajasthan Home Guards (Amendment) Ordinance, 1962 (Rajasthan Ordinance 3 of 1962) are hereby repealed.

(3) Notwithstanding such repeal, all rules made, anything done or any action taken in exercise of the powers conferred by or under the said Ordinances shall be deemed to have been made, done or taken in exercise of the powers conferred by or under this Act.