

SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) RULES, 1995

CONTENTS

1. Short title and commencement
2. Definitions
3. Precautionary and preventive measures
4. Supervision of prosecution and submission of report
5. Information to Police Officer in-charge of a Police Station
6. Spot inspection by officers
7. Investigating Officer
8. Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell
9. Nomination of Nodal Officer
10. Appointment of a Special Officer
11. Travelling allowance, daily allowance, maintenance expenses and transport facilities to the victim of atrocity, his or her dependent and witnesses
12. Measures to be taken by the District Administration
13. Selection of Officers and other State Members for completing the work relating to atrocity
14. Specific responsibility of the State Government
15. Contingency Plan by the State Government
16. Constitution of State level Vigilance and Monitoring Committee
17. Constitution of District Level Vigilance and Monitoring Committee
18. Material for Annual Report

SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) RULES, 1995

In exercise of the powers conferred by sub-section (1) of Sec. 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), the Central Government hereby makes the following rules, namely:

1. Short title and commencement :-

(1) These rules may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

(2) They shall come into force on the date of their publication In

the Official Gazette.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "Act" means the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. 1989 (33 of 1989).

(b) "dependent", with its grammatical variations and cognate expressions, includes wife, children, whether married or unmarried, dependent parents, widowed sister, widow and children of pre-deceased son of a victim of atrocity;

(c) "identified area" means such area where State Government has reason to believe that atrocity may take place or there is an apprehension of re-occurrence of an offence under the Act or an area prone to victim of atrocity;

(d) "Non-Government Organisation" means a voluntary organisation engaged in the welfare activities relating to the scheduled castes and the scheduled tribes and registered under Societies Registration Act, 1860 or under any law for the registration of documents of such organisation for the time being in force;

(e) "Schedule" means the Schedule annexed to these rules ;

(f) "Section" means section of the Act;

(g) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under Art.239 of the Constitution of India :

(h) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Precautionary and preventive measures :-

With a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes the State Government shall,-

(i) identify the area where it has reason to believe that atrocity may take place or there is an apprehension of re-occurrence of an offence under the Act ;

(ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation;

(iii) if deem necessary, in the identified area cancel the arms licences of the persons, not being member of the Scheduled Castes or Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited In the Government Armoury:

(iv) seize all illegal fire-arms and prohibit any illegal manufacture of fire-arms:

(v)with aview to ensure the safety of person and property, ifdeem necessary, provide arms licences to the members of the Scheduled Castes and the Scheduled Tribes;

(vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government In Implementation of the provisions of the Act.

(vii) set-up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act:

(viii) set-up Awareness Centres and organise Workshops in the identified area. or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State, enactments or rules, regulations and schemes framed thereunder:

(ix) encourage Non-Government Organisations for establishing and maintaining Awareness Centres and organising Workshops and provide them necessary financial and other sort of assistance ;

(x) deploy special police force in the identified area :

(xi) by the end of every quarter, review the law and order situation, functioning of different committees, performance-of Special Public Prosecutors, Investigating Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.

4. Supervision of prosecution and submission of report :-

(1) The State Government on the recommendation of the District Magistrate shall prepare for each District a panel of such number of eminent senior advocates who has been in practice for not less than seven years, as it may deem necessary for conducting cases in the

Special Courts. Similarly, in consultation with the Director-Prosecution incharge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.

(2) The District Magistrate and the Director of prosecution in charge of the prosecution shall review at least twice in a calendar year, in the month of January and July. the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.

(3) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of his ability and with due care and caution, his name may be, for reasons to be recorded in writing, denotified.

(4) The District Magistrate and the Officer-in-charge of the prosecution at the District level, shall review the position of cases registered under the Act and submit a monthly report on or before 20th day of each subsequent month to the Director of Prosecution and the State Government. This report shall specie the actions taken/proposed to be taken in respect of investi- gation and prosecution of each case.

(5) Notwithstanding anything contained in sub-rule (1) the District Magistrate or the Sub-Divisional Magistrate may. if deem necessary or if so desired by the victims of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fees as he may consider appropriate.

(6) Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other panel advocates In the State.

5. Infonmtion to Police Officer in-charge of a Police Station

:-

(1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction, and be read over to the informant, and eveiy such information, whether given In writing or reduced to writing as aforesaid, shall be

signed by the persons giving it, and the substance thereof shall be entered In a book to be maintained by that police station.

(2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred in in sub-rule (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police. shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by the police station.

6. Spot inspection by officers :-

(1) Whenever the District Magis- trate or the Sub-Divisional Magistrate or any other executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his Jurisdiction he shall immediately himself visit the place of occurrence to assess the extend of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.

(2) The District Magistrate or the sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police. Deputy Superintendent of Police after inspecting the place or area on the spot.-

(i) draw a list of victims, their family members and dependents entitled for relief:

(ii) prepare a detailed report of the extent of atrocity, loss and damage to the property of the victims;

(iii} order for Intensive police patrolling In the area:

(iv) take effective and necessary steps to provide protection to the witnesses and other sympathisers of the victims;

(v) provide immediate relief to the victims.

7. Investigating Officer :-

(1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The Investigating officer shall be appointed by the State Government, Director-General of Police, Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

(2) The Investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director-General of Police of the State Government.

(3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer-in-charge of Prosecution and the Director-General of Police shall review by the end of every quarter the position of all Investigations done by the investigating officer.

8. Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell :-

The State Government shall set up a Scheduled Castes and the Scheduled Tribes Protection Cell at the State headquarter under the charge of Director of Police, Inspector-General of Police. This Cell shall be responsible for,-

(i) conducting survey of the identified area;

(ii) maintaining public order and tranquillity In the identified area;

(iii) recommending to the State Government for deployment of special police force or establishment of special police post In the Identified area;

(iv) making investigations about the probable causes leading to an offence under the Act:

(v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes ;

(vi) informing the nodal officer and special officer about the law and order situation in the identified area;

(vii) making enquiries about the investigation and spot inspections conducted by various officers;

(viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in-charge of the police station has refused to enter an information In a book to be maintaince by that police station under sub-rule (3) of rule 5 ;

(ix) making enquiries about the wilful negligence by a public servant:

(x) reviewing the position of cases registered under the Act ; and

(xi) submitting a monthly report on or before 20th day of each subsequent month to the State Government, nodal officer about the action taken proposed to be taken, in respect of the above.

9. Nomination of Nodal Offlcer :-

The State Government shall nominate a nodal offlcer of the level of a Secretary to the Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for co-ordinating the functioning of the District Magistrates and Superinten- dent of Police or other officers authorised by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal offlcer shall review,-

(i) the reports received by the State Government under sub-rules (2) and (4) of rule 4, rule 6, Cl. (xi) of rule 8.

(ii) the position of cases registered under the Act;

(iii) law and order situation in the identified area ;

(iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;

(v) adequacy of immediave facilities like rationing, clothing, shelter, legal aid. travelling allowance, dally allowance and transport facilities provided to the victims of atrocity of his/her dependants ;

(vi) performance of non-Govemmental organisations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.

10. Appointment of a Special Officer :-

In the identified area a Spe- cial Offlcer not below the rank of an Additional District Magistrate shall be appointed to co-ordinate with the District Magistrate, Superintendent of Police or other officers

responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell. The Special Officer shall be responsible for:

(i) providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity;

(ii) setting up an awareness centre and organising workshop in the identified area or at the district headquarters to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes, etc. framed therein:

(iii) co-ordinating with the Non-Governmental organisations and providing necessary facilities and financial and other type of assistance to non-Governmental Organisation for maintaining centres or organising workshops.

11. Travelling allowance, daily allowance, maintenance expenses and transport facilities to the victim atrocity, his or her dependent and witnesses :-

(1) Every victim of atrocity or his/her dependent and witnesses shall be paid to and for rail fare by second class in express/mail/passenger train or actual bus or taxi fare from his/her place of residence or actual bus or taxi fare from his/her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act.

(2) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, superintendent of Police/Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate.

(3) Every woman witness, the victim of atrocity or her dependent being a woman or a minor, a person more than sixty years of age and a person having 40 per cent. or more disability shall be entitled to be accompanied by an attendant of her/his choice. The attendant shall also be paid travelling and maintenance expenses as applicable to the witness or the victim of atrocity when called

upon during hearing. investigation and trial of an offence under the Act.

(4) The witness, the victim of atrocity or his/her dependent and the attendant shall be paid daily maintenance expenses for the days he/she is away from the place of his/her residence or stay during investigation, hearing and trial of an offence, at such rates but not less than the minimum wages, as may be fixed by the State Government for the agricultural labourers.

(5) In addition to daily maintenance expenses the witness' the victim of atrocity (or his/her dependent) and the attendant shall also be paid diet expenses at such rates as may be fixed by the State Government from time to time.

(6) The payment of travelling allowance, daily allowance, maintenance expenses and reimbursement of transport facilities shall be made immediately or not later than three days by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate to the victims, their dependents/attendant and witnesses for the days they visit the investigating officer or in-charge police station or hospital authorities or Superintendent of Police, Deputy Superintendent of Police or District Magistrate or any other officer concerned or the Special Court.

(7) When an offence has been committed under Section 3 of the Act, the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall reimburse the payment of medicines, special medical consultation, blood transfusion, replacement of essential clothing, meals and fruits provided to the victim (s) of atrocity.

12. Measures to be taken by the District Administration :-

(1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim, their family members and dependents entitled for relief.

(2) Superintendent of Police shall ensure that the First Information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken.

(3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police

force in the area and take such other preventive measures as he may deem proper and necessary.

(4) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule annexed to these Rules (Annexure-I read with Annexure-II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

(5) The relief provided to the victim of the atrocity or his/her dependent under sub-rule (4) in respect of death, or injury to, or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.

(7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.

13. Selection of Officers and other State Members for completing the work relating to atrocity :-

(1) The State Government shall ensure that the administrative officers and other staff members to be appointed in an area prone to atrocity shall have the right aptitude and understanding of the problems of the Scheduled Castes and posts and police station.

(2) It shall also be ensured by the State Government that persons from the Scheduled Castes and the Scheduled Tribes are adequately represented in the administration and in the police force at all levels, particularly at the level of police posts and police

station.

14. Specific responsibility of the State Government :-

The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review atleast twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specified or appointed under Section 15 of the Act, various reports received. investigation made and preventive steps taken by the District Magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

15. Contingency Plan by the State Government :-

(1) The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify the role and responsibility of various departments and their officers at different levels, the role and responsibility of Rural/Urban Local Bodies and Non-Government Organizations. Inter alia this plan shall contain a package of relief measures including the following:

(a) scheme to provide immediate relief in cash or in kind or both;

(b) allotment of agricultural land and house-sites:

(c) the rehabilitation packages ;

(d) scheme for employment In Government or Government undertaking to the dependant or one of the family members of the victim:

(e) pension scheme for widows, dependent children of the deceased, handicapped or old age victims of atrocity;

{f) mandatory compensation for the victims:

(g) scheme for strengthening the socio-economic condition of the victim;

(h) provisions for providing brick/stone masonry house to the victims;

(i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility,

burial/cremation ground and link,roads to the Scheduled Castes and the Scheduled Tribes.

(2) The State Government shall forward a copy of the contingency plan or a summary thereof and a copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates. Inspectors-General of Police and Superintendents of Police.

16. Constitution of State level Vigilance and Monitoring Committee :-

(1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:

(i) Chief Minister/Administrator-Chairman (in case of a State under President's Rule Governor-Chairman).

(ii) Home Minister, Finance Minister and Welfare Minister-Mem- bers (in case of a State under the President's Rule Advisors-Members);

(iii) all elected Members of Parliament and State Legislative As- sembly and Legislative Council from the State belonging to the Sched- uled Castes and the Scheduled Tribes- Members.

(iv) Chief Secretary, the Home Secretary, the Director-General of Police, Director/Deputy Director National, Commission for the Sched- uled Castes and the Scheduled Tribes- Members;

(v) the Secretary In-charge of the welfare and development of the Scheduled Castes and the Scheduled Tribes- Convener.

(2) The high power vigilance and monitoring committee shall meet at least twice in a calendar year. in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, rule of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the State Government.

17. Constitution of District Level Vigilance and Monitoring Com- mittee :-

(1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review

the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.

(2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative-Council, Superintendent of Police, three-group 'A' Officers, Gazetted Officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organisations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member-Secretary respectively.

(3) The district level committee shall meet at least once in three months.

18. Material for Annual Report :-

The State Government shall every year before the 31st March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes/plans framed by it during the previous calendar year.