

THE PREVENTION OF ANTI-NATIONAL ACTIVITIES ACT,

1974

(VII of 1974)

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TEXT

THE PREVENTION OF ANTI-NATIONAL ACTIVITIES ACT, 1974

(VII of 1974)

[14th February, 1974]

An

Act

to provide for the more effective prevention of certain anti-national and treasonable activities

WHEREAS the freedom of association guaranteed by Article 17 of the Constitution is subject to any reasonable restrictions imposed by law in the interest of morality or public order;

AND WHEREAS it is expedient to provide for the more effective prevention of certain anti-national and treasonable activities of individuals and associations and for matters connected therewith;

It is hereby enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Prevention of Anti-National Activities Act, 1974.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

(a) “anti-national activity”, in relation to an individual or association means anything done by such individual or association, whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise,

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the secession of a part of the territory of Pakistan from the Federation, or which incites any individual or group of individuals to bring about secession;

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of Pakistan;

(iii) | which in any manner encourages or incites, or is intended or is likely or tends to encourage or incite, the public or any group thereof to create, open or continue any regional front or ‘mahaz’ of any kind based on racial, linguistic or similar ideologies and considerations with a view to disrupting the unity of the people of Pakistan; or

(iv) | which in any manner propagates or advocates that the citizens of Pakistan comprise more than one nationality;

(b) “association” means any combination or body of individuals;

(c) “prescribed “ means prescribed by rules made under this Act;

(d) “secession of a part of the territory of Pakistan from the Federation“ includes the assertion of any claim to determine whether such part will remain a part of the territory of Pakistan;

(e) “Tribunal” means the Tribunal constituted under section 5;

(f) “anti-national association” means any association which has for its object, or which indulges in, any anti-national activity, or which encourages or aids persons to undertake any anti-national activity, or of which members undertake such activity.

CHAPTER II

ANTI-NATIONAL ASSOCIATIONS

3. Declaration of an association as anti-national— (1) If the Federal Government is satisfied that any association is, or has become, an anti-national association, it may, by notification in the official Gazette, declare such association to be anti-national.

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

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

(3) Every such notification shall have effect from the date of its publication in the official Gazette.

(4) Every such notification shall be served on such association in such manner as the Federal Government may think fit, and all or any of the following modes may be followed in effecting such service, namely:—

(a) affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or

(b) serving a copy of the notification, where possible, on the principal office-bearers, if any of the association; or

(c) such other manner as may be prescribed.

4. Reference to Tribunal.— (1) Where any association has been declared anti-national by notification issued under section 3, the Federal Government shall, within thirty days from the date of the publication of the notification, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association anti-national.

(2) On receipt of a reference under sub-section (1), the Tribunal shall, by notice in writing, call upon the association affected to show cause, within thirty days from the date of the service of such notice, why the association should not be declared anti-national.

(3) | After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner

specified in section 9 and, after calling for such further information as it may consider necessary from the Federal Government or from any office-bearer or member of the

association, it shall decide whether or not there is sufficient cause for declaring the association anti-national and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under section 3, such order as it may deem fit either confirming the declaration made in the notification or canceling the declaration.

(4) The order of the Tribunal made under sub-section (3) shall be published in the official Gazette.

5. Tribunal.— (1) The Federal Government may, by notification in the official Gazette, constitute, as and when necessary, a Tribunal to be known as the Anti-National Activities Prevention Tribunal consisting of a person who is a Judge of a High Court, to be appointed by the Federal Government in consultation with the Chief Justice of the High Court of which he is a Judge.

(2) If, for any reason, a vacancy occurs in the Tribunal, then the Federal Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy occurs.

(3) | The Federal Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions, including the place at which it will hold its sittings.

(5) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(Act V of 1908), while trying a suit in respect of the following matters, namely:—

(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;

(c) the reception of evidence on affidavit;

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

(e) the issuing of commission for the examination of a witness.

(6) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898(Act V of 1898).

6. Finality, and cancellation, of notification.— (1) Subject to the provisions of sub-section (2), a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under section 4, become final.

(2) Notwithstanding anything contained in sub-section (1), the Federal Government may, at any time, either on its own motion or on the application of any person aggrieved thereby, cancel a notification issued under section 3, whether or not

the declaration made therein has been confirmed by the Tribunal.

7. Power to prohibit the use of funds of an anti-national association.— (1)

Where any association has been declared anti-national by a notification issued under section 3 and the Federal Government is satisfied, after such inquiry as it may think fit, that any person has custody of any money, securities or credits which are being used or are intended to be used for the purposes of the anti-national association, the Federal Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with moneys, securities or credits which may come into his custody after the making of the order, save in accordance with the written orders of the Federal Government; and a copy of such order shall be served upon the person so prohibited in the manner specified in sub-section (3).

(2) | The Federal Government may endorse a copy of an order made under sub-section (1) for investigation to any officer of the Government, and such copy shall be a warrant where under such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities or credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigation officer may suspect are being used or are intended to be used for the purposes of the anti-national association.

(3) | A copy of an order made under sub-section (1) shall be served in the manner provided in the Code of Criminal Procedure, 1898(Act V of 1898), for the service of a summon or, where the person to be served is a corporation, company, bank or other association, it shall be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or other association at its registered office, or where there is no registered office, at the place where it carries on business.

(4) Any person aggrieved by an order made under sub-section (1) may, within ninety days from the date of the service of such order, make an application to the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish that the moneys, securities or credits to which the order relates are not being used, or are not intended to be used, for the purposes of the anti-national association and the District Judge shall decide the question.

(5) Except so far as is necessary for the purposes of any proceedings under this section, no information obtained in the course of any investigation made under sub-section (2) shall be divulged by any person without the consent of the Federal Government.

(6) In this section, “security “includes a document whereby any person acknowledges that he is under a legal liability to pay money, or where under any person obtains a legal right to the payment of money.

8. Power to notify places used for purposes of an anti-national association.—

(1) Where an association has been declared anti-national by a notification issued under section 3, the Federal Government may, by notification in the official Gazette notify any place which in its opinion is used for the purposes of such association, hereinafter referred to as the notified place.

Explanation.— For the purposes of this sub-section, “place includes a house or building, or part thereof, and a tent or vessel”.

(2) On the issue of a notification under sub-section (1) in respect of any place, the District Magistrate within the local limits of whose jurisdiction such notified place is situate, or any officer not below the rank of a Magistrate of the first class authorised by him in writing in this behalf, shall make, in the presence of two respectable witnesses, a list of all movable properties found in such place.

(3) If, in the opinion of the District Magistrate, any articles mentioned in the list are, or may be used for the purposes of the anti-national association, he may make an order prohibiting any person from using the articles have in accordance with the written orders of the District Magistrate.

(4) — The District Magistrate may thereupon make an order that no person who, at the date of the notification, was not residing in the notified place shall, without the permission of the District Magistrate, enter, or be on or in, the notified place:

Provided that no such order shall be made in respect of any person who is a near relative of, or has any professional business with, any person who was residing in the notified place at the date of the notification.

(5) | Where in pursuance of sub-section (4) any person is granted permission to enter, or to be on or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.

(6) Any police officer, not below the rank of a sub-inspector, or any other person authorised in this behalf by the Federal Government may search any person entering, or seeking to enter or being on or in, the notified place and may detain any such person for the purpose of searching him:

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(7) If any person is in the notified place in contravention of an order made under sub-section (4), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Federal Government.

(8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the District Judge within the local limits of whose jurisdiction such notified place is situate—

(a) for a declaration that the place has not been used for the purpose of the anti-national association; or

(b) — for setting aside the order made under sub-section (3) or sub-section (4), and on receipt of the application the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

9. Procedure to be followed in the disposal of applications under this Act.—
Subject to any rules that may be made under this Act, the procedure to be followed by

the Tribunal in holding any inquiry under sub-section (3) of section 4 or by the District

Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908(Act V of 1908), for the investigation of claims and the decision of the Tribunal or the District Judge, as the case may be, shall be final.

CHAPTER III OFFENCES AND PENALTIES

10. Penalty for being member of an anti-national association.— Whoever is and continues to be a member of an association declared anti-national by a notification issued under section 3 or takes part in meetings of any such association, or contributes to, or receives or solicits any contribution for the purpose of, any such association or in any way assists the operations of any such association, shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

11. Penalty for dealing with funds of an anti-national association.— If any person on whom an order has been served under sub-section (1) of section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with such money, securities or credits in contravention of the order, he shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine, and, notwithstanding anything contained in the Code of Criminal Procedure, 1898(Act V of 1898), the court trying such contravention may also impose on such person an additional fine to recover from him the amount of the moneys or credits, or the market value of the securities, in respect of which the order has been contravened or such part thereof as the court may deem fit.

12. Penalty for contravention of an order made in respect of a notified place.—

(1) Whoever knowingly and willfully is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (4) of section 8 in respect thereof shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

(2) | Whoever uses any article in contravention of an order in respect thereof made under sub-section (3) of section 8 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

13. Punishment for anti-national activities.— (1) Whoever—

(a) takes part in or commits, or

(b) advocates or abets, or attempts to advocate or abet, the commission of, any anti-national activity, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(2) | Whoever, in any way, assists any anti-national activity of any association declared anti-national under section 3, shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine.

CHAPTER IV

MISCELLANEOUS

14. Continuance of association.— An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

15. Bar of Jurisdiction etc.— (1) Save as otherwise expressly provided in this Act, no order made or proceeding taken under section 3, section 7 or section 8 by the Federal Government or the District Magistrate or any officer authorised in this behalf by the Federal Government or the District Magistrate shall be called in question in any court, 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 or under this Act.

(2) Any person aggrieved by a decision of the Tribunal may, within ninety days from the date of such decision, prefer an appeal to the Supreme Court.

(3) | Any person aggrieved by a decision of a District Judge may, within ninety days from the date of such decision, prefer an appeal to the High Court.

16. Prosecution for offences under this Act.— No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Federal Government or a Provincial Government or an officer authorised by either Government in this behalf.

17. Protection of action taken in good faith. (1) No suit or other legal proceeding shall lie against the Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made there-under.

18. Power to delegate.- The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under section 7 or section 8 shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by any Provincial Government and the Provincial Government may, with the previous approval of the Federal Government, by order in writing direct that any power which has been so directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercisable by any person subordinate to the Provincial Government, not being a person below the rank of Sub-divisional Magistrate, as may be so specified.

19. Act, etc., to override other laws.— The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

20. Power to make rules.— (1) The Federal Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or other association;

(b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act.

21. Repeal, etc.— (1) In the Prevention of Anti-National Activities Ordinance, 1973(XXIX of 1973), section 21 shall be omitted and shall be deemed always to have been omitted and the Criminal Law Amendment Act, 1908(XIV of 1908), shall stand revived and shall have effect and shall be deemed always to have had effect as if it had never been repealed by the said Ordinance.

(2) The Prevention of Anti-National Activities Ordinance, 1973(XXIX of 1973), is hereby repealed.