

WEST BENGAL (PREVENTION OF VIOLENT ACTIVITIES) ACT, 1970

Government of India Ministry of Law Legislative Department President's Act No. 19 of 1970 THE WEST BENGAL (PREVENTION OF VIOLENT ACTIVITIES) ACT, 1970 [22nd November, 1970.] Enacted by the President in the Twenty-first Year of the Republic of India. An Act to provide for detention with a view to preventing violent activities and for matters connected therewith. In exercise of the powers conferred by section 3 of the West Bengal State Legislature (Delegation of Powers) Act, 1970, the President is pleased to enact as follows 17 of 1970. (1) This Act may be called the West Bengal (Prevention of Violent Activities) Act, 1970. (2) It extends to the whole of the State Of West Bengal* (3) It shall come into force at once

2. In this Act, unless the context otherwise requires, "order" means an order made under section 3. 3. (1) The State Government 'may, if satisfied with respect to any person that with a View to preventing him from acting in any manner prejudicial to the security of the State' or the maintenance of public order, it is necessary so to do, make an order directing that such person be detained. (2) For the purposes of sub-section (1), the expression 'acting in any manner prejudicial to the security of the State -or the maintenance of public order' means— (a) using, or instigating any person by words, either spoken or written, or by signs or by visible representations * or otherwise, to use, any lethal weapon—s (i) to promote or propagate any cause or ideology, the promotion or propagation of Which affects, or is likely to affect, adversely the security of the State or the maintenance of public order; or (ii) to overthrow or to overthrow the Government established by law in India. "lethal weapon" includes arms, explosive or corrosive substances, swords, spears, daggers, bows and arrows; or (b) committing mischief, within the meaning of section 425 of the Indian Penal Code, by fire or explosive substance on any property of Government or any local authority or any corporation owned or controlled by Government or any University or other educational institution or on any public building, where the commission of such mischief disturbs, or is likely to disturb, public order; or (c) causing insult to the Indian National Flag or to any other object of public veneration, whether by mutilating, damaging, burning, defiling, destroying or otherwise, or instigating any person to do so. "object of public veneration" includes any portrait or statue of an eminent Indian, installed in a public place as a mark of respect to him or to his memory; or (d) committing, or instigating any person to commit, any offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more or any offence under the Arms Act, 1959 or the Explosive Substances Act, 1908, where the commission of such offence disturbs, or is likely to disturb, public order; or (e) in the case of a person referred to in sub-section (1), exercise of the power by the said sub-section. (4) : When any order is made under this section by an officer specified (3), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as may be required. The Government may, if satisfied, that the order is justified, may, if it thinks fit, direct that the order shall remain in force for more than twelve days after the date on which it was made, or may, if it thinks fit, direct that the order shall be continued in force for a longer period. (5) When, any order is made or approved by the State Government under this section, the State Government shall, as soon as may be, report the facts to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order

4. A detention order may be executed at any place in the State of West Bengal in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1908. 5. Every person in respect of whom a detention order has been made shall be liable— (a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and

punishment for, breaches of discipline, as the State Government may, by general or special order, specify; and (b) to be removed from one place of detention to another place of detention, within the State of West Bengal, by order of the State Government. •e. No detention order shall be invalid or inoperative merely by reason— (a) that the person to be detained thereunder, though within the State of West Bengal, is outside the limits of the territorial jurisdiction of the officer making the order; or (b) that the place of detention of such person, though within the State of West Bengal, is outside the limits of the territorial jurisdiction of the officer making the order. (1) If the State Government or an officer specified in subsection (3) of section 3, as the case may be, has made a detention order, the order shall not be invalid or inoperative on any of the following grounds: (a) that the person to be detained has absconded or is concealing himself so that the order cannot be executed, that Government officer may— (a) a report in writing of the fact to a Presidency Magistrate or a Magistrate of the class having jurisdiction in the place where the person ordinarily resides; and the provisions of sections 87, 88 and Of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate; (b) by order notified in the Official Gazette directing the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under clause (b) of subsection (1) shall be cognizable. 8. (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the State Government. (2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose. 9. (1) The State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act. (2) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the State Government. (3) The State Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman

10. In every case where a detention order has been made under this Act, the State Government shall, within thirty days from the date of detention under the order, place before the Advisory Board, constituted by it under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and a case where the order has been made by an officer specified in sub-section (3) of section 3, also the report of the officer specified in sub-section (4) of section 3. The West Bengal (Prevention of Violent Activities) Act, 1970. (1) The Advisory Board shall, after considering the materials placed before it, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the State Government within ten weeks from the date of detention. (2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned. (3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board. (4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential. 12. (1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause

foi• the UPOII detention of a person, the State Government may confirm Advisory the detention order and continue the detention of the person • Board. concerned for such period a8 it thinks fit. (2) In any case where the Advisory Board has reforted that there is, in its opinion, no suffcient cause the detention df- the person concerned, the State Government shall' revoke the detention order a.nd cause the person to be released forthfith

13. The maximum period for which any person may be Maximum detained in- pursuance of any detention order which has period Of been confirmed under section 12 shall be twelve months detention.from the date of detention. 14. (1) Without prejudice to th6.provi8ions of section Revocation Ben. Aot•l of the Bengal General Clauses Act, , 1899, a (letention order Of of 1899. may at any time be revoked or by the State Govern- detention ' ment notwithstanding that the order has been made by an ordera. officer specified in sub-section (3) of section 3. (2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same• person in any case whereø• fresh' fac€3 have Temporary release of persöna detained. Prüetion of action t,ak.øu undä• the 6 Thi-W-V8t Ben" (Pfeffention of Violent Act, 197t tpreiidént'8 Act arisenåf.tef -the date ot revocation or expiry on •which the State Government or an officer Bbecified in sub-section (3) of section 3, as •the case may be, is satisfied that such •an oider should be made. 415. (1) The State Government may at any etime direct that any person detained in -pursuance of a detention order may be .released for agy specified period either without cofidifidfis or upon such conditions specified in the direction as that person accepts, and may at any tiane cancel his release. (2) In diFectilig the release of any person under sub- section . (I), the State Government may require him to enter into a bond With or without sureties for the due observance of the conditions specified in the direction. (3) Any "person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the eeder directing his release or cancelling his- release, as the case may be. (4), If person faile without euffcient cauge to surrender himself in the manner specified in sub-section (3), he eh'all be punishable with imprisonment for a which may extend to two years, or with fine, or with both. (5) If any person released under sub-section (1) fails t. fulfil any of the conditions imposed upon him unde the said sub-section or in the bond entered into by him, *th6 bond shall be declared. to be forfeited and any person bound ther& by shall be liable to pay the penalty thereof

16. No suit or other legal proceeding shall lie against the State Government, and no suit, prosecution or: "her legal proceeeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act.Qhe Veat Bengal (Prgvgniion oj V ident Activiiea) 1670. 19 ot 1970.1 Reasons for the enactmuent There increasing anxiety over the continuing violent activities, in West Bengal, of the 'Naxalites', Other similar extremist groups, and anti-social elements operating with them. • As the existing kaws have been found to be inadequate for dealing with the situation, it iB neces- eary to vest the State administration with powers to detain person' to prevent them from indulging in the aforesaid activities. •It is, therefore, proposed to enact this Bill

2. The Committee constituted under the proviso to sub-section (2) of section 3 Df the West Bengal State Legislature (Delegation of Powers) Act, 1970 (17 of 1970), has been consulted enactment of this mea- sure as a President's Act.WBGP.qo/71-3269A.6M