

महाराष्ट्र शासन

क्रमांक अधिनि-०७१५/प्र.क्र.३२४/विशा-६
गृह विभाग, मंत्रालय, मादाम कामा मार्ग,
मुंबई- ४०० ०३२.
दिनांक : १८ नोव्हेंबर, २०१५

महाराष्ट्र राज्यात काही भागात लोक किंवा लोक समूह, कुटुंब किंवा कुटुंबियांना वाळीत टाकण्याची अमानवी अशी सामाजिक दौर्बल्य असलेली प्रथा अदयापही सुरु आहे. सदर प्रथेचे उच्चाटन करण्यासाठी सध्या प्रचलित असलेले कायदे अपुरे पडतात. त्यामुळे राज्यातील नागरीकांना एकोप्याने राहता यावे तसेच अशा अनिष्ट प्रथेला प्रतिबंध करण्याची गरज विचारात घेता "महाराष्ट्र सामाजिक बहिष्कार प्रतिबंध अधिनियम-२०१५" असा नवा अधिनियम जारी करणे प्रस्तावित आहे. याप्रमाणे सदर अधिनियमाचे इंग्रजी व मराठी प्रारूप यासोबत जोडले आहे.

प्रस्तावित अधिनियमातील ठळक बाबी :-

- I) सामाजिक बहिष्कार टाकणे ही कृती अधिनियमान्वये गुन्हा ठरविण्यात आली आहे.
- II) सदर गुन्हा दाखलपात्र व जामिनपात्र ठरविण्यात आला आहे.
- III) सदर गुन्ह्यात दोषी आढळणा-या गुन्हेगारास ७ वर्षांपर्यंत कारावास किंवा रुपये ५.०० लाखापर्यंत दंड किंवा एकाच वेळी दोन्ही शिक्षेची तरतुद.
- IV) सदर गुन्ह्यात दोषारोपपत्र दाखल झाल्यानंतर ६ महिन्यांत निकाल अपेक्षित.

सदर अधिनियमाबाबत सर्वसाधारण जनता व सर्व संबधितांना विनंती करण्यात येते की, त्यांनी सदर अधिनियम वेब-साईटवर प्रसिध्द झाल्यापासून २ आठवडयामध्ये त्यांच्या सूचना व हरकती शासनास पुढील पत्यांवर सादर कराव्यात.

अवर सचिव (विशा-६), गृह विभाग, मंत्रालय, दुसरा मजला, मादाम कामा रोड, मुंबई-४०० ०३२. ई-मेल : home_special6@maharashtra.gov.in, दुरध्वनी क्रमांक : २२०२५१३२.

(प्र.गं.घोक्षे)
अवर सचिव

BILL No. of 2015

A BILL

to provide for the prohibition of social boycott of a person or group of persons including their family members, and for matters connected therewith or incidental thereto.

WHEREAS promoting amongst the citizens fraternity assuring the dignity of individual is enshrined as one of the goals in the preamble of the Constitution of India;

AND WHEREAS a right to live with human dignity is a recognized fundamental right of a person enshrined in article 21 of the Constitution and also a basic human right inherent in human existence;

AND WHEREAS it has been observed that the dehumanizing practice of social boycott of a person or group of persons including their family members still persists in various parts of the State;

AND WHEREAS it appears that the existing laws are proved to be not effective in total elimination of the evil of social boycott of a person or group of persons including their family members;

AND WHEREAS it is necessary to prohibit social boycott as a matter of social reform in the interest of public welfare;

AND WHEREAS with a view to ensure that the people in the State live in harmony with their human rights, it is expedient to provide for the prohibition of social boycott of a person or group of persons including their family members, and for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-sixth Year of the Republic of

India as follows:-

Short title
and extent
and
commence-
ment.

1. (1) This Act may be called the Maharashtra Prohibition of Social Boycott Act, 2015.

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

Definitions.

2. (1) In this Act, unless the context otherwise requires,-

(a) “Caste Panchayat” means a Committee or a body formed by a group of persons belonging to any community, whether registered or not, which functions within the community to regulate various practices in the same community, controls personal and social behaviour of any member and collectively resolves or decides any disputes amongst their members including their families, by issuing oral or written dictums, whether called as a “*panchayat*” or a “*gavki*” or by any other name or description;

(b) “community” means a group, the members of which are connected together by reason of the fact that by birth, conversion or the performance of any religious rites or ceremonies they belong to the same religion or religious creed and includes a caste or sub-caste;

(c) “Government” or “State Government” means the Government of Maharashtra;

(d) “human rights” shall have the same meaning as assigned to it in clause (d) of section 2 of the Protection of Human Rights Act, 1993;

(e) “member” means a person who is a member of any community;

(f) “Social Boycott Prohibition Officer” means any officer of the Government designated by the State Government, by

notification in the *Official Gazette*, under section 16;

(g) “social boycott” means the gesture or an act, whether oral or written, of any social discrimination between the members of the community, specified in section 3;

(h) “victim” means any individual who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of social boycott and includes his relatives, legal guardian and legal heirs.

(2) The words and expressions used but not defined in this Act and defined in the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 or the Protection of Human Rights Act, 1993, as the case may be, shall be deemed to have the meanings respectively assigned to them in those enactments.

45 of 1860.
1 of 1872.
2 of 1974.
10 of 1994.

Social
boycott.

3. Any member who commits any of the following act or acts shall be deemed to have imposed social boycott on a member of his community:-

(i) if he prevents or obstructs or causes to prevent or obstructs any member of his community from observing any social or religious custom or usage or ceremony or from taking a part in a social, religious or community functions, congregation, assembly, meeting or procession;

(ii) if he refuses or denies or causes to refuse or deny any member of his community the right to perform marriage, funeral or other religious ceremonies and rites as the members of his own community usually and ordinarily perform;

(iii) if he commits or causes to commit social ostracism on any grounds;

(iv) if he shuns or refuses any member of his community from engaging in the society or cut-of social or commercial ties with such member resulting in making the life of such member miserable;

(v) if he prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or from using any place used or intended to be used for a charitable, religious or public purpose which is established or maintained wholly or partly by his own community for and on behalf of the community out of the funds of such community and is normally available for use to or by any other member of his own community;

(vi) if he prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by, or intended to be used by, or for the benefit of, his community;

(vii) if he prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a charitable trust or waqf created for the benefit of his community;

(viii) if he incites or provokes or encourages any member of his community, directly or indirectly, to sever social, religious, professional or business relations with any other member or members of his community;

(ix) if he prevents or obstructs or causes to prevent or obstruct any member of his community from entering, lodging in or otherwise using any place of worship or pilgrimage, which is ordinarily open to the members of his community;

(x) if he prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social, professional or business relations as he would ordinarily establish or maintain with other members of his community;

(xi) if he prevents or obstructs or causes to prevent or obstruct any children of his community from playing together with the children of specific family or families in the community;

(xii) if he obstructs or denies or causes to obstruct or deny any member of his community from enjoying human rights;

(xiii) if he discriminates or causes to discriminate amongst the members of the community on the basis of morality, social acceptance, political inclination, sexuality or any other basis;

(xiv) if he creates or causes to create cultural obstacle or compel any member of his community to wear any particular type of clothes or use any specific language;

(xv) if he expel or causes to expel any member of his community from the said community; and

(xvi) if he commits any other similar acts.

4. (1) No person or group of persons shall gather, assemble or congregate at any time and at any place with the view or intention to deliberate on issue of imposing social boycott on any member of the community.

Prohibition
on
assembling
for
imposing
social
boycott.

(2) Such gathering or assembly or congregation shall be treated as an unlawful assembly and every person convening and organizing such assembly and every member thereof participating therein shall be punishable with a fine which may extend to one lakh fifty thousand rupees.

Prohibition
of social
boycott.

5. The social boycott is hereby prohibited and its commission shall be an offence.

Punishment
for social
boycott.

6. Whoever imposes or causes to impose any social boycott on any member of his community, shall, on conviction, be punished with imprisonment of either description, which may extend to seven years, or with fine which may extend to five lakhs rupees, or with both.

Explanation.- When an offence under this section is alleged to have been committed by a Caste Panchayat, if the offence is alleged to have been committed at the meeting of such Caste Panchayat, any individual who has voted in favour of the decision or participated in decision regarding social boycott taken in such meeting shall be deemed to have committed the offence.

Punishment
for aiding or
abetting the
offence.

7. Every person who aids or abets the commission of offence under this Act shall be punished with imprisonment which may extend to three years, or with a fine which may extend to three lakh rupees, or with both.

Previous
social
boycott to be
void.

8. (1) If any person happens to have been socially boycotted before coming into force of this Act, such social boycott shall be void and of no effect from the date on which this Act comes into force.

(2) Any Caste *Panchayat*, who,-

(a) declares that social boycott which is void under this Act is in force; or

(b) behaves in such a manner towards the person who is socially boycotted as to show that such social boycott is still in force,

shall be deemed to have committed an offence under the provisions of this Act and shall be liable to be punished accordingly.

9. If the accused is convicted, the Court shall, hear the victim on the question of sentence, and then only pass the sentence.

Victim to be heard on sentence.

10. Any offence punishable under this Act shall be cognizable and bailable and triable by a Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be.

Offences to be cognizable and bailable.

11. The offence punishable under this Act may, with the consent of the victim and with the permission of the court, be compoundable:

Compounding of offence.

Provided that, the Court shall, by an order, grant permission for compounding of the offence subject to the condition of performance of community services to be rendered by the accused person, as the court thinks fit.

12. (1) The victim or any member of his family may file a complaint either through the police or directly to the Magistrate.

Procedure to be followed upon receiving complaint.

(2) The Magistrate before whom the complaint is filed under sub-section (1) may direct the police to conduct the investigation.

(3) The Magistrate may also direct the police and other

concerned authorities to provide the victim and his family, any kind of assistance or remedy or protection that he thinks necessary during the trial of the case.

Police officer to take action.

13. Upon receiving the information of the offence of social boycott under this Act or of the likelihood of commission of social boycott, a police officer may,-

(a) remove, or cause to be removed, any barricade or obstruction erected or placed in any place if such police officer has reasonable ground to believe that the barricade or obstruction was so erected or placed in order to be used for the purpose of committing an offence under this Act; or

(b) open or cause to be opened any gate or door, if such police officer has reasonable ground to believe that such gate or door has been closed for the purpose of committing an offence under this Act.

Speedy Trial of offences by a Magistrate.

14. To ensure speedy justice, the trial shall be completed within a period of six months from the date of filing of the charge sheet.

Power to prevent certain acts.

15. (1) Where the Collector or District Magistrate, as the case may be, receives information that there is likelihood of convening of unlawful assembly for imposition of Social Boycott, he shall, by order, prohibit the convening of any such unlawful assembly and doing of any act towards the commission of any offence under this Act by any person in any areas specified in the order.

(2) The Collector or District Magistrate, as the case may be, may take such steps as he think necessary to give effect to

such order, including giving of appropriate directives to the police authorities.

Social
Boycott
Prohibition
Officer.

16. (1) The State Government may, by notification in the *Official Gazette*, designate any officer of the Government, as the Social Boycott Prohibition Officer as it may consider necessary and may also notify the area or areas within which he shall exercise the powers and perform the duties conferred upon him by or under this Act.

17. It shall be the functions of the Social Boycott Prohibition Officer,-

Functions of
Social
Boycott
Prohibition
Officer.

(a) to detect the commission of offences under the provisions of this Act by any person in the area of his jurisdiction, by taking such action as he deems fit and to report such cases to the Magistrate;

(b) to assist the Magistrate while he is trying the offences and its proceedings under this Act;

(c) to assist the police officers in discharge of their duties under this Act;

(d) to see that the order of community services passed by the Magistrate is implemented, and to forward a report to the court regarding compliance of such order from the accused;

(e) to submit his quarterly report regarding his work to the Magistrate and to the Superintendent of Police or the Commissioner of Police, as the case may be;

(f) to discharge such other functions as may be assigned to him by the State Government.

18. When a Magistrate imposes a sentence of fine, the Court may, when passing judgment, order the whole or any part of

Compen-
sation to
victim.

the fine recovered to be given to the victim and his family, as the compensation.

1 of 1872.

19. Notwithstanding anything contained in the Indian Evidence Act, 1872, in any trial for the offences punishable under this Act, the burden of proving that no offence under this Act have been committed by the accused, shall lie on the accused.

Burden of proof on accused.

Act not in derogation of any other law.

20. The provisions of this Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

Framing charges under Indian Penal Code.

21. While framing charges for the offences under this Act, the Magistrate may also frame charges under sections 34, 120-A, 120-B, 149, 153-A, 383 to 389 and 511 of the Indian Penal Code, 1860, or any other provision of that Code, if the fact disclose the commission of an offence under those provisions.

45 of 1860.

Power to make rules.

22. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in any rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of

publication of a notification in the *Official Gazette*, of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Power to
remove
difficulties.

Provided that, no such order shall be made under this sub-section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.