



The Maharashtra Suraksha Dal Act, 1986

Act 3 of 1987

Keyword(s):

Dal, Magistrate, Rakshadhikari, Subordinate Officer, Superior Officer

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MAHARASHTRA ACT No. 3 OF 1987.¹

[THE MAHARASHTRA SURAKSHA DAL ACT, 1986]

[This Act received the assent of the President on the 9th February 1987; assent first published in *Maharashtra Government Gazette*, Part IV, Extraordinary, on the 12th day of February 1987.]

An Act to provide for the constitution and regulation of a Force called the Maharashtra Suraksha Dal for the better protection and security of the premises of the Government, public sector undertakings, local authorities and banks situated in the State of Maharashtra.

WHEREAS it is expedient to constitute a security force called the Maharashtra *Suraksha Dal* for the better protection and security of the premises of the Government and the premises of the public sector undertakings, local authorities and banks situated in the State of Maharashtra. It is hereby enacted in the Thirty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra *Suraksha Dal* Act, 1986.

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

(3) It shall come into force in such area and from such date, as the State Government may, by notification in the *Official Gazette*, appoint; and different dates may be appointed for different areas.

Short title,
extent and
commence-
ment.

2. (1) In this Act, unless the Context otherwise requires,—

(a) “*Dal*” means Maharashtra *Suraksha Dal* constituted under section 3;

(b) “Magistrate”,—

(i) in relation to a metropolitan area, means a Metropolitan Magistrate; and

(ii) in relation to an area outside a Metropolitan area, means a Judicial Magistrate of the first class;

(c) “member of the *Dal*” means a person appointed to the *Dal* under this Act, other than a superior officer;

(d) “Police Officer” means a Police Officer as defined in the Bombay Police Act, 1951;

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

(f) “*Rakshadhikari*” means *Rakshadhikari* of the *Dal* and includes an *Upa-Rakshadhikari* of the *Dal*, appointed under section 4;

(g) “subordinate officer” means a person appointed to the *Dal* as a *Raksha Nirikshak*, *Raksha Upa-Nirikshak* or a *jamadar*;

(h) “superior officer” means a person appointed under section 4;

(i) “the Government” shall include both the State Government and the Central Government.

Definitions.

(2) Words and expressions used herein and which are defined in the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Bombay Police Act, 1951 of and not hereinbefore defined, shall have the meanings respectively assigned to them in these enactments.

Bom.
XXII
of
1951.
of
1974.
Bom.
XXII
of
1951.

¹For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, Part V, Extraordinary dated 18th June 1986, p. 317.

Constitution of Dal. 3. (1) There shall be constituted and maintained by the State Government a Force to be called the Maharashtra *Suraksha Dal* for better protection and security of the premises of the Government situated in the State of Maharashtra, and the premises of any public sector undertakings, local authorities, banks or, as the case may be, of any industrial undertakings or commercial organisations, situated in the State of Maharashtra which require such protection and security from the State Government as provided under sub-section (1) of section 17.

(2) Subject to the provisions of this Act, the *Dal* shall be constituted and maintained in such manner and shall consist of such number of superior officers and members of the *Dal*, as the State Government may, from time to time determine.

(3) The recruitment, pay, pension, allowances and all other conditions of service of the Superior officers and members of the *Dal* shall be such as the State Government may, from time to time, be general or special order, determine:

Provided that, nothing in this section shall apply to pay, pension and other conditions of Service of the police officer or any other officer who is on deputation to the *Dal*.

Appointment and powers of superior officers. 4. (1) The State Government may appoint one or more persons in each of the categories of the following superior officers, as it deems fit, namely :—

- (a) *Rakshadhikari*,
- (b) *Upa-Rakshadhikari*, and
- (c) such other superior officers, by such designations, as the State Government may decide.

(2) The *Rakshadhikari*, *Upa-Rakshadhikari* and every other superior officer so appointed shall exercise such powers and perform such duties and functions as provided by or under this Act.

(3) It shall be competent for the State Government and the *Rakshadhikari* of the *Dal*, with the prior approval of the State Government, to obtain on deputation from any other State or the Central Government, such of the employes of those Governments for appointment as superior officers as it may deem fit.

Class and ranks among members of Dal. 5. There shall be following classes of subordinate officers and other ranks, among the members of the *Dal* and they shall take rank in the order mentioned below, namely :—

- (a) Subordinate Officers—
 - (1) *Raksha Nirishak*.
 - (2) *Raksha Upa-Nirikshak*.
 - (3) *Suraksha Jamadar*.
- (b) Other ranks—
 - (1) *Pramukh Rakshak*.
 - (2) *Rakshak*.

Appointment of members of Dal. 6. The appointment of the members of the *Dal* referred to in section 5 shall rest with the *Rakshadhikari*, who shall exercise that power in accordance with the rules made under this Act :

Provided that, the powers of appointment under this section may also be exercised by an *Upa-Rakshadhikari* and such other superior officer as the Government may, by order, specify in this behalf.

Identity card for superior officers or members of Dal. 7. (1) Every superior officer and member of the *Dal* shall receive on his appointment an identity card in such form and under the seal of such superior officer or any other officer as the State Government may, by general or special order, specify in this behalf.

(2) Such identity card shall—

- (a) cease to have effect whenever the person named therein ceases for any reason to be a superior officer or member of the *Dal*, as the case may be, or
- (b) stand suspended during the period for which a holder of such identity card is under suspension from the office.

8. (1) A member of the *Dal* or a superior officers shall not be competent to exercise any powers or perform any functions or to enjoy any privileges under this Act, during the period for which he is under suspension from the office.

Effect of suspension of member or superior officer of *Dal*.

(2) During the period of suspension, such person shall not cease to be a member or an officer, as the case may be, of the *Dal* and shall during that period continue to be subject to the same control and discipline to which he was subject, prior to his suspension from office.

9. (1) Every person who for any reasons is under suspension or ceases to be a member of the *Dal*, shall forthwith surrender to any officer empowered by general or special order to receive the same, his identity card, the arms, accouterments, clothing and other articles which have been furnished to him for the performance of duties as a member of the *Dal*.

Surrender of identity card, arms, etc. by person under suspension or ceasing to be superior officer or member of *Dal*.

(2) The provisions of sub-section (1) shall *mutatis mutandis* apply to any superior officer.

(3) The power of empowering any officer shall—

- (a) in the case of members of the *Dal*, be exercised by the *Rakshadhikari*, and
- (b) in the case of superior officers, be exercised by the State Government.

(4) Any person who wilfully neglects or refuses to surrender his identity card, the arms, accouterments, clothing and other articles furnished to him, as required by sub-section (1) or (2) shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(5) Any Magistrate and, for special reasons which shall be recorded in writing at the time, the *Rakshadhikari*, or the *Upa-Rakshadhikari*, may issue a warrant to search for and seize, wherever they be found, any identity card, arms, accouterments, clothing or other articles not so surrendered. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1973, by any subordinate officer referred to in clause (a) of section 5 or, if the Magistrate, *Rakshadhikari* or *Upa-Rakshadhikari* issuing the warrant so directs, by any other member of the *Dal* referred to in clause (b) of section 5.

II of 1974.

(6) Nothing in this section shall apply to any article which, under the orders of the *Rakshadhikari*, has become the property of the person to whom the same was furnished.

10. (1) The superintendence of and control over the *Dal* shall vest in the State Government and subject thereto, the administration of the *Dal* shall vest in the *Rakshadhikari* and shall be carried out by him in accordance with the provisions of this Act and the rules made thereunder.

Superintendence, control and administration of *Dal*.

(2) The State Government may, by general or special order, direct that any of the powers and functions of the *Rakshadhikari* may also be exercised and performed by an *Upa-Rakshadhikari* of the *Dal*, for such area or areas as may be specified in such order.

(3) Subject to the provisions of sub-sections (1) and (2), every superior officer or a member of the *Dal* placed in charge of the protection and security of any

premises of the Government, public sector undertaking, local authority or bank shall, subject to any directions that may be given by the State Government or the *Rakshadhikari* in this behalf, discharge his functions under the general supervision, direction and control of such principal officer or any other officer of the Government, public sector undertaking, local authority or bank, as each one of them may specify in respect of protection and security of their respective premises, or where any requisition of any industrial undertaking or commercial organisation is sanctioned under the proviso to sub-section (1) of section 17, such superior or subordinate officer not below the rank of *Raksha Upa-Nirikshak* as the *Rakshadhikari* may specify in respect of protection and security of the premises of such industrial undertaking or commercial organisation.

Duties of
the members
of Dal.

11. It shall be the duty of every supervisory officer and member of the *Dal* to,—

(a) promptly obey and execute all orders lawfully issued to him by his superior authority and the principal officer or any other officer specified under sub-section (3) of section 10;

(b) protect and safeguard the premises of the Government which are situate within the local limits of his jurisdiction;

(c) protect and safeguard the premises of such other authorities, undertakings or organisations for the protection and security of which he is deputed under sub-section (1) of section 17; and

(d) do any act conducive to the better protection and security of the premises referred to in clauses (b) and (c).

Power to
arrest
without
warrant.

12. Any superior officer or member of the *Dal*, may, without any order from a Magistrate and without a warrant, arrest—

(a) any person who has been involved or concerned in, or against whom a reasonable suspicion exists of his having been involved or concerned in, or who is found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing, a cognizable offence relating to the property or premises referred to in clauses (b) and (c) of section 11;

(b) any person found trespassing on the premises referred to in clauses (b) and (c) of section 11;

(c) any person who,—

(i) voluntarily causes hurt or attempts to voluntarily cause hurt,

(ii) wrongfully restrains or attempts to wrongfully restrain,

(iii) assaults or threatens to assault,

(iv) uses criminal force or threatens or attempts to use criminal force,

so as to prevent or deter a superior officer or a member of the *Dal*, in the execution of his duty as such officer or member, as the case may be, or with an intent to prevent or deter him from discharging his duty, or, anything being done by him in consequence of the lawful discharge of his duty, as such officer or member of the *Dal*.

Circumstances under which superior officers and members of Dal entitled to use force.

13. (1) A superior officer or member of the *Dal*, may, when there is a reasonable apprehension of assault on himself or on any superior officer or any other member of the *Dal*, or of damage or harm to any property or person which or whom it is his duty to protect and safeguard, use such force to the wrong doer or assailant or any other person assisting such wrong doer or assailant as may be reasonably necessary.

(2) The provisions of sub-section (1) shall be in addition to, and not in derogation of, the provisions of sections 100 to 103 of the Indian Penal Code.

14. (1) Whenever any superior officer or any member of the *Dal*, not below the rank of *Pramukh Rakshak*, has reason to believe that any such offence as is referred to in section 12 has been or is being committed and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may detain the offender and search his person and belongings forthwith and if he think proper arrest any person whom he has reason to believe to have committed the offence.

Power to search without warrant.

II of 1974. (2) The provisions of the Code of Criminal Procedure, 1973, relating to searches under that Code shall, so far as may be, apply to searches under this section.

15. Any superior officer or member of the *Dal* making an arrest under this Act, shall, without unnecessary delay, make over the person so arrested to a police officer, or, in the absence of a police officer, take such person, or cause him to be taken, to the nearest police station together with a report of the circumstances occasioning the arrest :

Procedure to be followed after arrest.

Provided that, the person so arrested under this Act shall be produced before the nearest Magistrate within a period of twenty four hours of his arrest under section 12 excluding the time necessary for the journey from the place of arrest to a nearest Police Station and the Court of the Magistrate, and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

16. (1) Every superior officer and member of the *Dal* shall, for the purposes of this Act, be considered to be always on duty, and shall, at any time, be liable to be employed including on transfer in any part of the State of Maharashtra.

Officers and members of *Dal* to be considered always on duty and liable to be employed in any part of State.

(2) Save as provided by sub-section (1) of section 17, no superior officer or member of the *Dal* shall engage himself in any employment or office other than his duties under this Act.

17. (1) Subject to any general directions which may be issued by the State Government it shall be lawful for the *Rakshadhikari*, on a written requisition received in this behalf from any office of the Government or from the Managing Director or any other person in charge of the affairs of any public sector undertaking, local authority or bank indicating the necessity thereof, to depute such number of members of the *Dal* as, having regard to the requisition so made, the *Rakshadhikari* considers necessary for the protection and safety of the premises of the Government or of such an undertaking or authority as the case may be, and the members so deputed shall be at the charge of the concerned office of the Government, undertaking or authority or bank :

Deputation to public sector undertakings, industrial undertakings and commercial organisations, etc.

Provided that, the State Government may, by, any general or special order issued in this behalf, empower the *Rakshadhikari* to entertain any such requisition in respect of any industrial undertaking or class of undertakings or any commercial organisation or class of commercial organisations, and thereupon any such requisition, when received by the *Rakshadhikari*, may be considered by him accordance with the provisions of this section.

Explanation.—For the purposes of this section, the expression “ industrial undertaking or class of industrial undertakings or any commercial organisation or class of commercial organisations ” means—

(i) the industrial undertaking or class of industrial undertakings or commercial organisation or class of commercial organisations, owned or managed by a co-operative society registered under the Maharashtra Co-operative Societies Act, 1960; or

(ii) such industrial undertaking or class of industrial undertakings or commercial organisation or class of commercial organisations engaged in the manufacture, production, distribution or supply of goods or services required for any purpose connected with the defence of India, as the State Government may by general or special order specify.

(2) The terms, conditions and charges of the members of the *Dal* deputed under sub-section (1) to any office of the Government, undertaking, authority or organisation shall be such as the State Government may, by general or special order in this behalf, determine from time to time.

(3) If the *Rakshadhikari* is of the opinion that the circumstances necessitating the deputation of the members of the *Dal* in relation to such office of the Government, undertaking, authority or organisation under sub-section (1) have ceased to exist, or for any other reason it is necessary so to do, he may, after informing the concerned officer of the Government or the Managing Director or the person in charge of the affairs of that office of the Government, undertaking, authority or organisation, withdraw the members of the *Dal* so deputed.

(4) The officer in charge of the office of the Government or the Managing Director or the person in charge of the affairs of the undertaking, authority or organisation may, on giving one month's notice in writing to the *Rakshadhikari*, require that the members of the *Dal* so deputed shall be withdrawn, and the concerned officer of the Government, the Managing Director or the person in charge of the affairs of the concerned undertaking, authority or the organisation, as the case may be, shall be relieved from the charges from the date of expiration of the period of such notice or from any earlier date, if any, on which the members of the *Dal* are so withdrawn.

Dismissals,
removal, etc.
of members
of *Dal*.

18. Subject to the provisions of article 311 of the Constitution of India and to such rules as the State Government may make under this Act,—

(a) a superior officer, being the appointing authority, may dismiss, remove, suspend or reduce in rank any member of the *Dal* whom he thinks remiss, negligent, perverse or corrupt in the discharge of his duty, or unfit for the same; or

(b) any superior officer may award any one or more of the following punishments to any member of the *Dal* who discharges his duty in a careless or negligent manner, or who by any act of his own renders himself unfit for the discharge thereof, namely :—

(i) fine up to any amount not exceeding pay for one month exclusive of allowances, if any, or reduction in pay-scale;

(ii) removal from any office of distinction or deprivation of any special emolument;

(iii) drill, extra guard, fatigue, or other duty:

Provided that, the punishment specified in sub-clause (iii) shall not be awarded to any member of the *Dal* above the rank of *Pramukh Rakshak* and in any case where such punishment is inflicted it shall not be enforced till the expiry of the period of preferring an appeal specified in sub-section (1) of section 19.

Appeal and
Revision.

19. (1) Any member of the *Dal* aggrieved by an order made under section 18 may, within thirty days from the date on which the order is communicated to him, prefer an appeal against the said order to such officer or authority as may be prescribed, and subject to the provisions of sub-section (4), the decision of the said authority thereon shall be final :

Provided that, the prescribed authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellants were prevented by sufficient cause from filing the appeal in time.

(2) Notwithstanding anything contained in sub-section (1), no appeal shall lie against—

(i) any order of an interlocutory nature or of the nature of a step-in-aid in any disciplinary proceeding or inquiry;

(ii) any order passed by Government under sub-section (4).

(3) In disposing of the appeal filed under sub-section (1), the prescribed officer or authority shall follow such procedure as may be prescribed.

(4) The State Government may *suo motu*, or on an application made in this behalf by an aggrieved person, call for an examine the record of any proceeding under clause (a) of section 18 or under sub-section (1) of this section and after making such inquiry or causing such inquiry to be made, may, subject to the provisions of this Act, pass such order thereon as it thinks fit:

Provided that no record of any such proceeding shall be called for and examined after the expiry of sixty days from the date on which the period specified for appeal under sub-section (1) has expired or as the case may be if an appeal is filed from the date of communication to the concerned person of the order passed in the appeal proceedings:

Provided further that, no order imposing an enhanced penalty under sub-section (1) or sub-section (4) shall be made unless a reasonable opportunity of being heard has been given to the person affected by such order.

20. (1) Without prejudice to the provisions contained in section 18 every member of the Dal who shall be guilty of any violation of duty or wilful breach or neglect of any rule or lawful order made by a superior officer or who shall withdraw from the duties of his office without permission or who being absent on leave fails, without reasonable cause to report himself for duty on the expiration of the leave or who engages himself without authority in any employment other than his duty as a member of the Dal, or who shall be guilty of cowardice shall, on conviction, be punished with imprisonment for a term which may extend to six months.

Penalties for neglect of duty, etc.

II of 1974. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this section shall be cognizable.

21. Nothing contained in section 20 shall be construed to prevent any member of the Dal from being prosecuted under any other law for any offence made punishable by that law, or for being liable under any such law to any other or higher penalty or punishment than is provided for such offence by that section :

Prosecution for offences under any other law not affected.

Provided that, no person shall be punished twice for the same offence.

22 of 1922. 22. The Police (Incitement to Disaffection) Act, 1922 shall apply to superior officers and members of the Dal as it applies to the members of a police force.

Application of Act 22 of 1922 to officers and members of Dal.

4 of 1936. 23. Nothing contained in the Payment of Wages Act, 1936, or the Industrial Disputes Act, 1947, or the Factories Act, 1948, or any corresponding law relating to investigation or settlement of industrial disputes in force in the State of Maharashtra shall apply to members of the Dal.

Certain Acts not to apply to members of Dal.

Protection
of acts of
superior
officers and
members of
the Dal.

24. (1) In any suit or proceeding against any superior officer or member of the Dal for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the orders of a competent authority.

(2) Any such plea may be proved by the production of the order directing the act, and if it is so proved, the superior officer or member of the Dal shall thereupon be discharged from any liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding, whether civil or criminal, which may lawfully be brought against any superior officer or member of the Dal for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules made thereunder, shall be commenced within six months after the act complained of was committed and not otherwise; and notice in writing of such proceeding and of the cause thereof shall be given to the person concerned and his superior officer at least one month before the commencement of such proceeding; and any such proceeding shall not be entertained, or shall be dismissed, if instituted more than six months after the date of the act complained of or without giving the notice thereof as aforesaid:

Provided that, for the purpose of computing the period of six months under this sub-section, the period required for obtaining the prior sanction of the State Government under sub-section (4), shall be excluded.

(4) No court shall take cognizance of any offence committed by any superior officer or member of the Dal while acting or purporting to act in the discharge of his official duty except with the prior sanction of the State Government.

Power to
make rules.

25. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules not inconsistent with this Act for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the power to make rules under sub-section (1), the rules may provide for all or any of the following matters, namely :—

(a) appointment of subordinate officers and other ranks, under section 6;

(b) superintendence and administration of the Dal, under sub-section (1) of section 10;

(c) dismissal, suspension and reduction in rank, under sub-section (1) of section 18;

(d) appellate officer or authority and procedure in appeal proceedings, under sub-sections (1) and (2) of section 19;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section 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 30 days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which it is laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, 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.