

No.11011/65/2012-NE-V
Government of India
Ministry of Home Affairs

Dated the 3rd June, 2013

To

Shri Yogesh Chhabra,
LP-12 C, Pitampura,
Delhi - 110034

Subject: Information under RTI Act, 2005

Sir,

I am directed to refer to your RTI application on the above subject received in the Ministry on 9.4.2013 and received from Director (NE) of MHA on 27.5.2013 and to send herewith information on point . No. 4 of your application as below:


In accordance of section 3 of the AFSPA- if, in relation to any State or Union territory to which this Act extends, the Governor of that State or the Administrator of that Union territory or the Central Government, in either case, if of the opinion that the whole or any part of such State or Union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such state or Union territory to be a disturbed area.

So far North Eastern Region is concerned AFSPA is forced in the following States/areas of the North Eastern Region.

1. Entire State of Assam and Nagaland.
2. Tirap, Changlang & Longding districts of Arunachal Pradesh.
3. 20 km wide belt bordering Assam in the States of Arunachal Pradesh and Meghalaya.
4. The entire State of Manipur excluding Imphal Municipal Area, being forced by the State Govt. of Manipur.
5. Parts of Tripura as notified by the State Government.

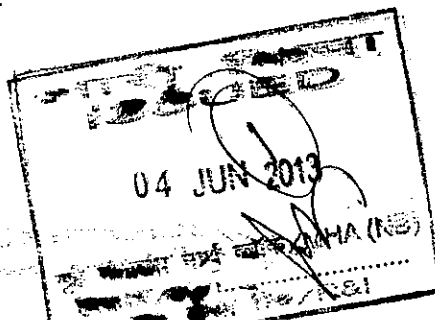
2. A photocopy of the AFSPA, 1958 is also enclosed herewith. The Copy of the Act and concerned notifications are also available in the Public domain which can be had from Govt. Publication house, Baba Kharg Singh Marg, New Delhi, by paying required amount and for further information , if any, of point No. 4 of your application, you are advised to approach the concerned State Govts of North Eastern Region.

Yours faithfully,


(G. Sridharan)
Deputy Secretary, NE-II

Copy to:

Shri Surojit Ghosh, Under Secretary, RTI, MHA w.r.to O.M. No. A43020/01/2013-RTI, dated 16.4.2013 of RTI Section, MHA.



Speed Post

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Plz Issue
R&I
4/6/13

o/c
Amit
4/6/13

Encl :- as above

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THE ARMED FORCES (SPECIAL POWERS) ACT, 1958

(28 of 1958)

[11th September, 1958]

An Act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the State of ¹[Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura].

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. Short title and extent.—(1) This Act may be called ²[The Armed Forces (Special Powers) Act, 1958].

³[(2) It extends to the whole of the State of ⁴[Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura].

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "armed forces" mean the military forces and the air forces operating as land forces, and includes other armed forces of the Union so operating;
- (b) "disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area;
- (c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) shall have the meanings respectively to them in those Acts.

³[3. **Power to declare areas to be disturbed areas.**—If, in relation to any State or Union territory to which this Act extends, the Governor of that State or the Administrator of that Union territory or the Central Government, in either case, if of the opinion that the whole or any part of such State or Union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union territory to be a disturbed area].

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- 1. Subs. by Act 69 of 1986, sec. 43, for "Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura and the Union Territory of Arunachal Pradesh" (w.e.f. 20-2-1987).
 - 2. Subs. by Act 7 of 1972, sec. 3, for "the Armed Forces (Assam and Manipur) Special Powers Act, 1958" (w.e.f. 5-4-1972).
 - 3. Subs. by Act 7 of 1972, sec. 4, for section 3 (w.e.f. 5-4-1972).
 - 4. Subs. by Act 69 of 1986, sec. 43, for "Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura and the Union territory of Arunachal Pradesh" (w.e.f. 20-2-1987).

COMMENTS

(i) The Governor is empowered to declare any area of the State as "disturbed area". It could not be arbitrary on ground of absence of legislative guidelines; *Inderjit Barua v. State of Assam*, AIR 1983 Del 514.

(ii) Section 3 cannot be construed as conferring a power to issue a declaration without any time limit. There should be periodic review of the declaration before the expiry of six months; *Naga People's Movement of Human Rights v. Union of India*, AIR 1998 SC 431.

4. Special Powers of the armed forces.—Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—

- (a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;
- (b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;
- (c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
- (d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

COMMENTS

(i) Conferment of power on non-commissioned officers like a Havaldar cannot be said to be bad and unjustified; *Inderjit Barua v. State of Assam*, AIR 1983 Del 514.

(ii) The armed forces must act in cooperation with the district administration and not as an independent body. Armed forces could work in harmony when they are deployed in disturbed area; *Luithukla v. Rishang Keishing*, (1988) 2 Gau LR 159.

5. Arrested persons to be made over to the police.—Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

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COMMENTS

In case of arrest of any person, army authority is duty bound to handover to the officer-in-charge of the nearest police station with least possible delay; *Horendi Gogoi v. Union of India*, (1991) Gau CR 3081.

6. Protection to persons acting under Act.—No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

7. Repeal and Saving.—[Repealed by Amending and Repealing Act, 1960 (58 of 1960), First Schedule, sec. 2 (26-12-1960)].

S.No 9(R)

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RTI MATTER/TIME BOUND

No.A-43020/01/2013-RTI
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, dated 16/4/2013.

OFFICE MEMORANDUM

Subject: Application of Shri/Smt./Ms. Yogesh Chhabra under the RTI Act, 2005.

The undersigned is directed to forward herewith an application dated 5/4/2013 under the RTI Act, 2005 from Shri/Smt./Ms. Yogesh Chhabra (received in this Ministry on 09/4/2013 by transfer from NE/IRK Division for providing information, as the requested information pertains to/more closely related to the functions of the said Division. It is requested that if the subject matter pertains to any other CPIO/Public Authority, the application may be forwarded/transferred directly to that Authority under intimation to the applicant.

2. The applicant has paid the requisite fee of Rs.10/- vide Receipt No. 24411 dated 11/4/2013 (enclosed)/not paid the fee since he/she belongs to BPL category.

Pl. examine & put up. US/NEI 17/4

Surojit Ghosh

(Surojit Ghosh)
Under Secretary to the Govt of India.

- To
 - ① DIRECTOR (NE), H/o Home Affairs, North Block, New Delhi.
 - ② Asst. Secretary (K-I), H/o Home Affairs, North Block New Delhi.
- (J.P.K. Division)* } Relevant paras.

Copy for information to:

Shri/Smt./Ms. Yogesh Chhabra
LP-12
DEPT-110034

(He/She is requested to contact the above mentioned CPIO/Public Authority for further information in the matter).

6/4/2013

C110 33

संलग्न में राज्य का नाम

मताधिकार के समयका प्याग

भारतीय मतदाना मंच

पत्र व्यवहार कार्यालय: एल पी. 12^{थी}, पीतम पुरा, निकट गोपाल मंदिर, दिल्ली-110034
दूरभाष: 9810201088, 9310201088

(राष्ट्रीय अध्यक्ष)

राज्य अध्यक्ष

Ref: BMM/NP-04/2013/443

Dated: 05/04/2013

To,

१४०२/RTI/२०१३
११/४/१३

Public Information Officer,
Ministry of Home Affairs,
North Block,
New Delhi 110001.

Subject: Information under the Right to Information Act-2005.

Dear Sir,

Please provide the information on the following points under Right to Information Act 2005. Please ensure to provide the complete heads name and please use the complete name and address for the information sought.

1. Please provide the following details under different heads on yearly basis starting from January 1984 till December 2012. How many Terrorist, Insurgents and people associated with Terrorist organizations have been given center or state assistance after Surrender to State, Center or Armed forces including police all across India please provide the amount paid as compensation to them or any other financial assistance provided to them such as Land for cultivation or seed money to start business. Please provide the name of the Terrorist or people associated with Terrorist organization who got such assistance along with the amount spent on them on yearly basis.
2. Please provide the details as how many of the Terrorist or people associated with Terrorist organization who were given assistance after surrender were again found associated with Terrorist or Terrorist Organization after the assistance was paid or provided and what happened once it was cleared that the person has not reformed , was the assistance revoked and was recovered if yes please provide the details if no please provide the details as to what was the reason behind not recovering or attaching assets. Please provide the details on yearly basis starting from January 1984 till December 2012 and please provide the details from all across India.

9 APR 2013
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राज्य अध्यक्ष

राज्य अध्यक्ष

राज्य अध्यक्ष

पत्र में प्रयुक्त नाम

मनाधिकार व मरका प्याग

भारतीय मतदाना मंच

पत्र व्यवहार कार्यालय: एल पी. 12 सी, पीतम पुरा, निकट गोपाल मंदिर, दिल्ली-110034
दूरभाष: 9810201088, 9310201088

(राष्ट्रीय अध्यक्ष)

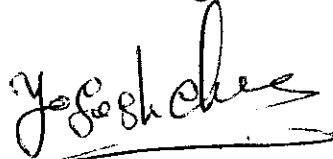
योगेश चहब्रा

3. Please provide the information in regards to Human Rights Violation cases which have happened between January 1984 till December 2012 all across India in which either Armed Forces or Police was involved. Please provide the details on yearly basis and state wise also please provide in brief as to what were the charges and if proven right then what the verdict was and if proven wrong what was the action taken on the petitioner. Please ensure that the details are under the heads as Year, State, Date, case no., Brief about the case, Verdict or the current status.
4. Please provide the Law governing AFSPA i.e. Armed forces Special Protection Act how it is implemented provisions in the Act who is the Governing Authority in such matters, Also please provide a copy of the Act and in which state currently it is being in force and Since how long. Please do provide these details along with any amendment which might have come from the actual frame of the Act as to when it was defined.

Important Note: Please provide all the information in Hindi Language.

₹10.00 Postal Order Bearing no. - 06F 665377 Dated 28/08/2012 attached.

Thanks and Regards



Yogesh Chhabra,
LP-12 C Pitampura,
Delhi 110034.

पत्र व्यवहार

मनाधिकार व मरका प्याग

मनाधिकार व मरका प्याग