

ARC - II 5TH REPORT ON PUBLIC ORDER

RECOMMENDATIONS

1. State Government and the Police

- a. The following provision should be incorporated in the respective Police Acts:

It shall be the responsibility of the State Government to ensure efficient, effective, responsive and accountable functioning of police for the entire state. For this purpose, the power of superintendence of the police service shall vest in and be exercised by the State Government in accordance with the provisions of law.

The State Government shall exercise its superintendence over the police in such manner and to such an extent as to promote the professional efficiency of the police and ensure that its performance is at all times in accordance with the law. This shall be achieved through laying down policies and guidelines, setting standards for quality policing, facilitating their implementation and ensuring that the police performs its task in a professional manner with functional autonomy.

No government functionary shall issue any instructions to any police functionary which are illegal or mala fide.

- b. 'Obstruction of justice' should also be defined as an offence under the law.

POLICE FUNCTIONS

Based on the Code of Criminal Procedure and the different Police Acts the function of the police can be classified into the following categories:

- (a) Prevention of crime including intelligence gathering.
- (b) Investigation of crimes.
- (c) Maintenance of Public Order.
- (d) Assistance in criminal trial
- (e) Providing security to vital installations and important persons.
- (f) Service oriented functions:
 - Emergency duties during natural calamities.
 - Providing assistance to other agencies
 - Assisting in conducting elections.
 - Traffic control
 - Verification of antecedents.
 - Helping enforcement of laws.

2. Separation of Investigation from other Functions

- a. Crime Investigation should be separated from other policing functions. A Crime Investigation Agency should be constituted in each state.
- b. This agency should be headed by a Chief of Investigation under the administrative control of a Board of Investigation, to be headed by a retired/ sitting judge of the High Court. The Board should have an eminent lawyer, an eminent citizen, a retired police officer, a retired civil servant, the Home Secretary (ex-officio), the Director General of Police (ex-officio), Chief of the Crime Investigation Agency (ex-officio) and the Chief of Prosecution (ex-officio) as Members.
- c. The Chairman and Members of the Board of Investigation should be appointed by a high-powered collegium, headed by the Chief Minister and comprising the Speaker of the Assembly, Chief Justice of the High Court, the Home Minister and the Leader of Opposition in the Legislative Assembly. The Chief of Investigation should be appointed by the State Government on the recommendation of the Board of Investigation.
- d. The Chief of the Crime Investigation Agency should have full autonomy in matters of investigation. He shall have a minimum tenure of three years.
- e. All crimes having a prescribed punishment of more than a defined limit (say three or more years of imprisonment) shall be entrusted to the Crime Investigation Agency. Registration of FIRs and first response should be with the 'Law and Order' Police at the police station level.
- f. Appropriate mechanisms should be developed to ensure coordination between the Investigation, Forensic and the Law and Order Agencies, at the Local, District and the State levels.

3. Accountability of Law and Order Machinery

- a. A State Police Performance and Accountability Commission should be constituted, with the following as Members:
 - Home Minister (Chairman)
 - Leader of Opposition in the State Assembly
 - Chief Secretary
 - Secretary in charge of the Home Department;
 - Director General of Police as its Member Secretary
 - (For matters pertaining to Director General of Police, including his appointment, the Home