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GOVERNMENT OF ASSAM
POLITICAL (A) DEPARTMENT : DISPUR
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Tele Fax No. 0361-2261421:: Email: home.assam@gov.in

No. HMA.19015/66/2017-Political(A)/341(eCF-6990)

Dated Dispur, the 6th April, 2020.

From : Shri S. K. Das, ACS,
Joint Secretary to the Govt. of Assam,
Home & Political Department, Dispur.

To : **The Chief Executive Officer,**
Assam State Disaster Management Authority,
Dispur, Guwahati-06

Sub : Instructions from Ministry of Home Affairs regarding violation of lockdown measures.

Ref : D.O. No. 40-3/2020-DM-I(A) dtd 02/04/2020


Sir,

With reference to the subject cited above, I am directed to enclose herewith a copy of letters under reference received from Ajay Bhalla, IAS, Home Secretary, Ministry of Home Affairs, Govt. of India, which is self explanatory.

This is for your kind information and ready reference.

Enclo: As above

Yours faithfully,


Joint Secretary to the Govt. of Assam,
Home & Political Department, Dispur


Memo No. HMA.19015/66/2017-Political(A)/341-A(eCF-6990)

Dated Dispur, the 6th April, 2020

Copy to:

1. P. S. to the Additional Chief Secretary to the Govt. of Assam, Home & Political Department, Dispur for kind appraisal of the Additional Chief Secretary to the Govt. of Assam, Home & Political Department, Dispur.
2. P. S. to the Commissioner and Secretary to the Govt. of Assam, Home & Political Department, Dispur for kind appraisal of the Commissioner and Secretary to the Govt. of Assam, Home & Political Department, Dispur.

By order etc.,


Joint Secretary to the Govt. of Assam,
Home & Political Department, Dispur.

AJAY BHALLA, IAS

Addl CS H&P

D.O. No. 40-3/2020-DM-I(A)

Dear Chief Secretary

Please refer to my D.O. letter of even number dated 31.03.2020 wherein it was requested to strictly implement the lockdown measures issued by Ministry of Home Affairs in exercise of powers under Disaster Management Act, 2005 in letter and spirit, without allowing any exception.

2. Your kind attention is also brought to letter No. 40-1/2020-DM-I dated 01.04.2020 wherein observations/directions of the Hon'ble Supreme Court of India in the Writ Petition (Civil) No. 468 of 2020 were also brought to your notice. While referring to the provisions of Disaster Management Act, 2005 and Indian Penal Code the Hon'ble Court observed that (quote) "we trust and expect that all concerned viz.. State Governments, Public Authorities and Citizens of this country will faithfully comply with the directives, advisories and orders issued by Union of India in letter and spirit in the interest of public safety" (unquote).

3. In the lockdown measures issued vide MHA Order No. 40-3/2020-DM-I(A) dated 24.03.2020, it is clearly mentioned that "any person violating these containment measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC". Extract of the respective penal provisions was also attached with the guidelines. Extracts of penal provisions of Disaster Management Act, 2005 and IPC, in bilingual version, are again attached.

4. It is requested that for the attention of the public authorities and citizens, the penal provisions under the DM Act and IPC should be widely circulated and for violation of lockdown measures, action under relevant provisions of DM Act and IPC shall be taken by the law enforcement authorities.

With regards,

Yours sincerely,

Encl. as above

(Ajay Bhalla)

Chief Secretaries of All States
(As per Standard List attached)

Office of the Chief Secretary
Government of Assam
Home Department
Disaster Management
No. 778
Date 4/9/2020

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गृह सचिव
Home Secretary
भारत सरकार
Government of India
North Block,
New Delhi
02/04/2020
APR 2020
Office of the Chief Secretary
Government of Assam
ADD
सत्यमेव जयते
JS (K)

OFFENCES AND PENALTIES FOR VIOLATION OF LOCKDOWN MEASURE

A. SECTION 51 TO 60 OF THE DISASTER MANAGEMENT ACT, 2005

51. Punishment for obstruction, etc.—Whoever, without reasonable cause —

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that

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the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section— (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

B. Section 188 in The Indian Penal Code

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.