

**THE PALLANDRI DISTURBANCES SPECIAL
TRIBUNAL ACT, 1955.**

(Passed under Council Order No. 257/55 dated 2-11-55)

Whereas it is expedient to provide for the setting-up of a Special Tribunal to try Pallandri Disturbance Cases and other matters connected therewith ;

It is hereby enacted as follow :-

1. **Short title and commencement:-** (i) This Act may be called the Pallandri Disturbances Special Tribunal Act, 1955.

(ii) It extends to the whole of Azad Kashmir ;

(iii) It shall come into force at once.
2. **Special Tribunal:-** (1) For the trial of Pallandri Disturbance cases the Government shall by notification, set-up a Special Tribunal composed of two or more persons each of whom is a Judge of the High Court and shall nominate one of such persons to be the President of the Special Tribunal ;

Explanation: The expression "Pallandri Disturbance Cases" means any cases Which may be directed and specified, by the District Magistrate, Poonch to be placed before the Special Tribunal under Sub-section (2) of Section 3 and which arise out of Pallandri Disturbances of February, March, and April, 1955.

(2) If through death, illness or any other cause, a member of the Special Tribunal is unable to continue to sit thereon, the Government may, by notification, declare that he has vacated his office as such member, and may appoint thereto, another person who is a Judge of the High Court:

Provided that the Special Tribunal shall not, merely by reason of any change of its membership, be bound to recall and rehear any witness who has given evidence prior to such change, and it may act on the evidence already given or produced before it.

(3) (a) In the event of any difference of opinion among the members of the Special Tribunal, the view of the majority shall prevail, and the order or judgment shall be expressed in

terms of the view of the majority ;

- (b) Where the members are so divided that the order or judgment cannot be expressed in terms of the view of the majority the case shall be referred to the Chief Justice of the Azad Kashmir High Court whose decision shall be final :

3. **Commencement of proceedings:-** (1) Subject to the provisions of this Act no Court in Azad Kashmir, other than the Special Tribunal shall take cognizance of the Pallandri Disturbance Cases.

(2) As soon as may be after the constitution of the Special Tribunal, the District Magistrate, Poonch, shall take steps to specify the Pallandri Disturbance Cases out of the cases arising from the Pailandri Disturbances of February, March and April, 1955 and to forward to the Special Tribunal a statement of each such case on behalf of the prosecution together with a list of formal charges of offences alleged to have committed by the accused persons reciting the Law under which such offence is punishable and a list of witnesses whom it is intended to produce in support of the prosecution. The said formal charges shall be deemed to be the charges in the trial for purposes of Section 271 Code of Criminal Procedure, 1898.

NOTE:- The submission of a list of witnesses under this Sub-Section shall not preclude the prosecution from submitting additional names of witnesses at any subsequent stage of the prosecution evidence in the case.

(3) Notwithstanding anything contained to the contrary in the Criminal Procedure Code or in any other Law for the time being in force the Pallandri Disturbance cases as are specified and directed to be placed before the Special Tribunal by the District Magistrate Poonch, shall be deemed to be cognizable cases and shall be tried by the Tribunal without a complaint made by order of the Government and further sanction of the Government to the initiation of proceedings against any person shall not be necessary.

4. **Powers and procedure of special tribunal:-** (1) The Special Tribunal shall in relation to the proceedings in such cases have all the powers of a High Court in relation to criminal trials including the power of punishing for contempts and shall follow in all respects the procedure provided for trials before High

Courts in the Code of Criminal Procedure, 1898, except as hereinafter provided, namely :-

- (a) The trial shall be without a jury or the aid of assessors, and the relevant Sections of the Code of Criminal Procedure, 1898, shall be read as if all references to a jury or jurymen or assessors, and all references to commitment proceedings or any statements or documents made or prepared in the course of commitment proceedings, has been excluded therefrom ;
- (b) section 297 of the said Code shall be read as if it required the Special Tribunal, upon the case for the defence and the prosecutor's reply (if any) being concluded, to proceed, with all reasonable speed, to pronounce its judgment ;
- (c) the evidence of any witness may be taken down in shorthand or typescript by a person specially appointed for the purpose, and the transcript of the shorthand or the typescript, duly corrected shall be placed on the record ; and
- (d) all orders and proceedings, and the evidence of each witness shall be signed by at least one member of the Special Tribunal and the final judgment shall be signed by each of the members of the Tribunal.

5. **Conviction of accused person of offence not charged:-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or any other law, the Special Tribunal may convict any of the accused persons under any Law in force at the time of the commission of such offence, if it appears in evidence that he committed such offence, although he was not charged with it, and whether or not such offence is a minor offence composed of certain particulars comprised in one or more of the offences charged.

Separation of trial of any charge:- (2) The Special Tribunal may, at any time, if it deems fit to do so in the interest of justice, and to avoid prejudice to any of the accused persons, separate the trial of any charge or charges, against one or more of the accused persons, from the trial of the remaining charges and the trial of any charge so prepared shall be deemed to be a part of the trial of the said case ;

(3) For the purposes of this Section, the expression "Offence" shall include the abetment thereof by any of the accused persons.

6. **Place of sitting:-** The Special Tribunal shall hold its sittings at such place or places as the Government may appoint.
 7. **Restriction of adjournments:-** No trial before the Special Tribunal shall be adjourned for any purpose unless the Special Tribunal is of opinion that the adjournment is in the interests of justice, and in particular, no trial shall be adjourned by reason of the absence of any accused person, if such accused person is represented by Counsel, or if the absence of the accused persons or his Counsel, has been brought about by the accused person himself, or if the behaviour of the accused person prior to such absence has been, in the opinion of the Special Tribunal, such as to impede the course of justice but in any such case, the Special Tribunal shall proceed with the trial after taking necessary steps to appoint a Counsel to defend any accused person who is not represented by Counsel.
 8. **Special rules of evidence:-** Notwithstanding anything contained in the Evidence Act, 1872, the Special Tribunal may receive in evidence, for such purposes as it may deem fit, any statement recorded by a Magistrate made by any person who, at the time of the trial, is dead, or whose attendance cannot be procured without an amount of delay or expense which is unreasonable in the circumstances.
 9. **Sentence which special Tribunal may pass:-** The Special Tribunal may pass upon any of the accused person, any sentence which is authorised by Law.
 10. **Bar of appeal and revisions:-** No order, judgment or sentence of the Special Tribunal shall be called in question in appeal or revision or otherwise howsoever in any Court, and no Court shall entertain any plea as to the jurisdiction of the Special Tribunal, or as to the legality or propriety of anything done or purporting to be done by the Special Tribunal.
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