

HARYANA VIDHAN SABHA
THE HARYANA POLICE (AMENDMENT) BILL, 2022

(Report of the Select Committee)



HARYANA VIDHAN SABHA SECRETARIAT,
CHANDIGARH

Presented on 22nd February, 2023

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(ii)

**THE HARYANA POLICE (AMENDMENT) BILL, 2022
COMPOSITION OF THE SELECT COMMITTEE**

*1. Shri Ranbir Gangwa, Hon'ble Deputy Speaker	Chairperson
2. Shri Anil Vij, Home Minister (Minister-in-charge of the Bill)	Member
3. Shri Harvinder Kalyan, M.L.A.	Member
4. Shri Mahipal Dhanda, M.L.A.	Member
5. Shri Subhash Sudha, M.L.A.	Member
6. Shri Satya Parkash, M.L.A.	Member
7. Smt. Geeta Bhukkal, M.L.A.	Member
8. Shri Aftab Ahmed, M.L.A.	Member
9. Shri Varun Chaudhary, M.L.A.	Member
10. Shri Ishwar Singh, M.L.A.	Member
11. Shri Sombir Sangwan, M.L.A.	Member

SECRETARIAT

Shri R.K.Nandal, Secretary

Shri Vishnu Dev, Under Secretary

* Ex-Officio Chairperson vide Rule 136 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly.

**REPORT OF THE SELECT COMMITTEE ON
THE HARYANA POLICE (AMENDMENT) BILL, 2022**

1. The Select Committee to report on the Haryana Police (Amendment) Bill, 2022 was nominated by the Hon'ble Speaker on 09.09.2022 with direction to submit its report within two months but on the request of the Chairperson, the tenure of the Committee was extended one month and further three months more by the Hon'ble Speaker.
2. The Committee held two meetings.
3. The Select Committee met on the 29th September, 2022 and 6th December, 2022. The Select Committee at its meeting held on 29th September, 2022 had gone through various clauses of the Haryana Police (Amendment) Bill, 2022 and at the meeting held on 6th December, 2022 was associated with the Additional Chief Secretary to Government, Haryana, Home Department, Haryana, Director General of Police, Haryana and Deputy Legal Remembrancer, Haryana, Law and Legislative Department, Chandigarh to clarify any points which were arose during the course of discussion/ consideration of the Bill.
4. After considering the Bill Clause by Clause in the meeting held on the 6th December, 2022 the Committee suggested the following changes thereon:-

Clause 1 Approved

Clause- 2 for Section 65 (1)

In clause-2 for Section 65 (1) in the last line the words, "on a written complaint received from any of the following" be substituted with the words, "either suo moto or on a complaint received from:-"

Clause 3 Approved

One Member of the Committee Shri Varun Chaudhary, MLA has tendered his Dissenting Note in writing is as Appendix-I

The Committee approved the Bill as redrafted by the Legal Remembrancer and Admn. Secretary to Government, Haryana, Law and Legislative Department.

Sd/-

Chandigarh;
The 16th February, 2023

RANBIR GANGWA
DEPUTY SPEAKER,
CHAIRPERSON.

THE HARYANA POLICE (AMENDMENT) BILL, 2022

Bill as introduced in the Haryana Vidhan Sabha on the 10 th August, 2022	Bill as amended by the Select Committee. The Amendments are Bold.
<p style="text-align: center;">A BILL</p> <p style="text-align: center;">further to amend the Haryana Police Act, 2007.</p> <p style="text-align: center;">Be it enacted by the Legislature of the State of Haryana in the Seventy-third Year of the Republic of India as follows:—</p> <p>Short title. 1. This Act may be called the Haryana Police (Amendment) Act, 2022.</p> <p>Substitution of section 65 of Haryana Act 25 of 2008 2. For section 65 of the Haryana Police Act, 2007 (hereinafter called the principal Act), the following section shall be substituted, namely:—</p> <p style="padding-left: 40px;">“65. Functions of Authority.— (1) The Authority shall inquire into allegations of serious misconduct as detailed below against police personnel of the rank of Deputy Superintendent of Police and above, on a written complaint received from any of the following:—</p> <p style="padding-left: 40px;">(a) a victim or any person on his behalf on a sworn affidavit;</p> <p style="padding-left: 40px;">(b) the National or State Human Rights Commission.</p> <p style="padding-left: 40px;">Explanation.— “serious misconduct” for the purpose of this Chapter shall mean any act of a police officer that amounts to:</p> <p style="padding-left: 40px;">(a) death in police custody;</p> <p style="padding-left: 40px;">(b) rape in police custody;</p> <p style="padding-left: 40px;">(c) grievous hurt in police custody;</p> <p style="padding-left: 40px;">(d) custody or detention without due process of law;</p> <p style="padding-left: 40px;">(e) extortion;</p> <p style="padding-left: 40px;">(f) acquiring property through coercion;</p> <p style="padding-left: 40px;">(g) involvement of police personnel in organized crime:</p> <p style="padding-left: 80px;">Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the veracity of the complaint:</p> <p style="padding-left: 80px;">Provided further that no anonymous, synonymous and pseudonymous complaints shall be entertained.</p> <p>(2) The Authority shall not enquire into-</p> <p style="padding-left: 20px;">(i) any matter where a report under section 173 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) has been filed in an appropriate court;</p> <p style="padding-left: 20px;">(ii) any matter pending or that has already been dealt with by the National Human Rights Commission/State Human Rights Commission/National Commission for Scheduled Castes/State Commission for Scheduled</p>	<p style="text-align: center;">A BILL</p> <p style="text-align: center;">further to amend the Haryana Police Act, 2007.</p> <p style="text-align: center;">Be it enacted by the Legislature of the State of Haryana in the Seventy- third Year of the Republic of India as follows:—</p> <p>1. This Act may be called the Haryana Police (Amendment) Act, 2022.</p> <p>2. For section 65 of the Haryana Police Act, 2007 (hereinafter called the principal Act), the following section shall be substituted, namely:—</p> <p style="padding-left: 40px;">“65. Functions of Authority. – (1) The Authority shall inquire into allegations of serious misconduct as detailed below against police personnel of the rank of Deputy Superintendent of Police and above, either suo moto or on a complaint received from: -</p> <p style="padding-left: 40px;">(a) a victim or any person on his behalf on a sworn affidavit;</p> <p style="padding-left: 40px;">(b) the National or State Human Rights Commission.</p> <p style="padding-left: 40px;">Explanation.— “serious misconduct” for the purpose of this Chapter shall mean any act of a police officer that amounts to:</p> <p style="padding-left: 40px;">(a) death in police custody;</p> <p style="padding-left: 40px;">(b) rape in police custody;</p> <p style="padding-left: 40px;">(c) grievous hurt in police custody;</p> <p style="padding-left: 40px;">(d) custody or detention without due process of law;</p> <p style="padding-left: 40px;">(e) extortion;</p> <p style="padding-left: 40px;">(f) acquiring property through coercion;</p> <p style="padding-left: 40px;">(g) involvement of police personnel in organized crime:</p> <p style="padding-left: 80px;">Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied prima facie about the veracity of the complaint:</p> <p style="padding-left: 80px;">Provided further that no anonymous, synonymous and pseudonymous complaints shall be entertained.</p> <p>(2) The Authority shall not enquire into-</p> <p style="padding-left: 20px;">(i) any matter where a report under section 173 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) has been filed in an appropriate court;</p> <p style="padding-left: 20px;">(ii) any matter pending or that has already been dealt with by the National Human Rights Commission/State Human Rights Commission/National Commission for Scheduled Castes/State Commission for Scheduled</p>

<p>Amendment of section 68C of Haryana Act 25 of 2008.</p> <p>3. In section 68C of the principal Act,-</p> <p>(i) in sub-section (1), the words "either suo moto or" shall be omitted;</p> <p>(ii) for clauses (ii) and (iii) of sub-section (2), the following clauses shall be substituted, namely:-</p> <p>“(ii) any matter pending or has already been dealt with by the National Human Rights Commission/State Human Rights Commission/National Commission for Scheduled Castes/State Commission for Scheduled Castes/National Commission for Women/State Commission for Women/National Commission for Minorities/State Commission for Minorities or State Lokayukta;</p> <p>(iii) any matter falling within its jurisdiction after more than three years of its alleged occurrence;”</p>	<p>Castes/National Commission for Women/State Commission for Women/National Commission for Minorities/State Commission for Minorities or State Lokayukta;</p> <p>(iii) any matter falling within its jurisdiction after more than three years of its alleged occurrence;</p> <p>(iv) any matter arising out of use of force by the police authorities in dealing with any unlawful assembly, protest, dharna, blockage of any public passage or disruption of essential services.</p> <p>(3) The Authority may also inquire into any other case referred to it by the Director General of Police or the State Government.</p> <p>(4) The Authority shall decide the complaint within a period of six months from the date of its receipt.”.</p> <p>3. In section 68C of the principal Act,-</p> <p>(i) in sub-section (1), the words "either suo moto or" shall be omitted;</p> <p>(ii) for clauses (ii) and (iii) of sub-section (2), the following clauses shall be substituted, namely:-</p> <p>“(ii) any matter pending or has already been dealt with by the National Human Rights Commission/State Human Rights Commission/National Commission for Scheduled Castes/State Commission for Scheduled Castes/National Commission for Women/State Commission for Women/National Commission for Minorities/State Commission for Minorities or State Lokayukta;</p> <p>(iii) any matter falling within its jurisdiction after more than three years of its alleged occurrence;”</p> <p>Chandigarh: The 16th February, 2023</p> <p>R.K. NANDAL, Secretary, Haryana Vidhan Sabha.</p>
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APENDIX-I

DISSENTING NOTE

Shri Varun Chaudhary, MLA one of the Committee Member has tendered his dissenting note as under:-

“The provision for the Haryana Police Act, 2007 as well as the State & District Police Complaint Authority as per the judgement of Honorable Supreme Court in Prakash Singh & others VS Union of India & others (2006) was to ensure Police accountability were at The Haryana Police (Amendment) Bill, 2022 is limiting the purview of the Police Complaint Authority defeating the very purpose of setting it up.

As per the data provided not a single matter has been taken up by S.P.C.A. exercising suo moto powers. At the same time narrowing down the definition of serious misconduct-

1. Removing attempt to rape;
2. Allowing inquiries only if rape or grievous hurt is caused in Police custody & not otherwise;
3. Removing in action by Police official in any offence as defined in the Indian Penal Code 1860, which attracts minimum punishment of ten years or more, will make the SPCA & DPCA (section 68) ineffective in most of the matters, which are presently under their purview.

The District Police Complaint Authority has not been set up as per section 68 of the Haryana Police Act, 2007 and by an order dated 24th September, 2021 the inquiries which were to be conducted by the District Police Complaint Authority as per the Haryana Police Act, 2007 were transferred to State Police Complaint Authority. This order is void ab initio, as an amendment or ordinance is the only means to provide for any change, provided in the Act. Although this order mentioned above has over-burdened the State Police Complaint Authority as majority of the complaints are against the Inspectors & ranks below Inspectors will affect the time line of six months proposed in the Bill to decide the complaints under section 65(4).

To ensure Police accountability in the interest of the public, The Haryana Police (Amendment) Bill, 2022 may therefore be taken back.

Sd/-
(VARUN CHAUDHARY)
M.L.A.
Member, Select Committee
on the Haryana Police (Amendment)
Bill, 2022
06/12/2022”

APENDIX-II

MOTION IN THE HARYANA LEGISLATIVE ASSEMBLY

“That the Haryana Police (Amendment) Bill, 2022 be referred to the Select Committee for consideration.

That this House authorize the Speaker, Haryana Legislative Assembly to constitute a Select Committee keeping in view the proportionate strength of various parties in the House”

The Speaker nominated the following members to serve on the Select Committee on the Haryana Police (Amendment) Bill, 2022.

1. Shri Ranbir Gangwa, Hon'ble Deputy Speaker	Chairperson
2. Shri Anil Vij, Home Minister (Minister-in-charge of the Bill)	Member
3. Shri Harvinder Kalyan, M.L.A.	Member
4. Shri Mahipal Dhanda, M.L.A.	Member
5. Shri Subhash Sudha, M.L.A.	Member
6. Shri Satya Parkash, M.L.A.	Member
7. Smt. Geeta Bhukkal, M.L.A.	Member
8. Shri Aftab Ahmed, M.L.A.	Member
9. Shri Varun Chaudhary, M.L.A.	Member
10. Shri Ishwar Singh, M.L.A.	Member
11. Shri Sombir Sangwan, M.L.A.	Member

APENDIX-III

Relevant Proceedings of the meeting of the Select Committee on the Haryana Police (Amendment) Bill, 2022 held on 06.12.2022 at 2.00 P.M. in the Committee Room of the Haryana Vidhan Sabha Secretariat, Chandigarh.

PRESENT

1. Shri Ranbir Gangwa, Hon'ble Deputy Speaker	Chairperson
2. Shri Anil Vij, Home Minister (Minister-in-charge of the Bill)	Member
3. Shri Subhash Sudha, M.L.A.	Member
4. Smt. Geeta Bhukkal, M.L.A.	Member
5. Shri Aftab Ahmed, M.L.A.	Member
6. Shri Varun Chaudhary, M.L.A.	Member
7. Shri Sombir Sangwan, M.L.A.	Member

LAW AND LEGISLATIVE DEPARTMENT

Shri Sanjay Singhmar, Deputy Legal Remembrancer & Deputy Secretary

HOME DEPARTMENT

1. Shri T.V.S.N. Prasad, Additional Chief Secretary to Government, Haryana, Home, Jails, Criminal Investigation and Administration of Justice Department.
2. Shri Vinay Singh, Secretary to Government, Haryana, Home-I Department.
3. Shri Prashanta Kumar Agrawal, DGP, Haryana.
4. Shri Sanjay Kumar, IGP/L&O
5. Smt. Radhika Singh, Deputy Secretary
6. Dr. Suman Bansal, District Attorney

SECRETARIAT

Shri Vishnu Dev, Under Secretary

OBSERVATIONS/ RECOMMENDATION OF THE COMMITTEE

After discussion on the Bill, the Committee made the following observations: -

Clause 1 Approved

Clause 2 for Section 65 (1)

In clause-2 for Section 65 (1), in the last line the words, “on a written complaint received from any of the following” be substituted with the words, “as detailed below, either suo moto or on a complaint received from:-”

Clause 3 Approved

The Committee desired that the Legal Remembrancer & Administrative Secretary to Government, Haryana, Law and Legislative Department, Chandigarh to redraft the Bill in the light of the observations of the Committee in consultation with the administrative department.

The Committee authorized the Chairperson to draft, sign and present the Report to the House on its behalf.

(The meeting then adjourned.)

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