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NOTIFICATION

GOVERNMENT OF MIZORAM
LAW, JUDICIAL & PARLIAMENTARY AFFAIRS DEPARTMENT

No. F. 13013/1/90-LJD

Dated Aizawl, the 9th June, 1990.

The following Ordinance is hereby published for general information.

THE ESSENTIAL SERVICES MAINTENANCE ORDINANCE, 1990
No. 1 of 1990

Promulgated by the Governor in the Forty-First Year of the Republic of India.

An Ordinance

to provide for the maintenance of certain essential services and normal life of the community.

Whereas the Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action,

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Mizoram is pleased to promulgate the following Ordinance:

Short title, extent and commencement.

1. (1) This Ordinance may be called the Mizoram Essential Service Maintenance Ordinance, 1990.
- (2) It shall extend to the whole of the State of Mizoram.
- (3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,-

(a) "Essential Service" means -

- (i) a service in the Police force, Homeguards or such other group of persons as are to assist in the maintenance of law and order or in prevention of offences by virtue of an obligation under a statute, regulation or Order;
- (ii) any service assigned for administration or protection of prisons, reformatories, borstals and Institutions of like nature;
- (iii) any service connected with Public Health, Sanitation, Hospitals, Dispensaries;
- (iv) any service in relation to education;
- (v) any service for movement or transportation of public servants, passenger, goods or commodities;
- (vi) any service connected with supply of water, electricity or any other essential commodities;
- (vii) any service engaged in production, supply, distribution and storage of goods or essential commodities;
- (viii) any public service in connection with the affairs of the State in the Secretariat, departments and districts or local administration;
- (ix) any service in connection with the affairs of the State not being a service specified in any of the foregoing sub-clauses.

(b) "Strike" means the cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment and includes -

- (i) refusal to work overtime where such work is necessary for the maintenance of any essential service;
- (ii) any other conduct which is likely to result in or results in cessation or substantial retardation of work in any essential service;

- (iii) showing token strikes and taking of leave or absence from the place of duty owing to refusal of work to which he is ordinarily employed in any of such essential service.

power to prohibit strikes in certain employments.

- 3. (1) If the State Government is satisfied that in public interest, it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in any essential service specified in the order.

- (2) An order made under sub-section (1) shall be published in such manner as the State Government considers best calculated to bring it to the notice of the persons effected by the order.

- (3) An order made under sub-section (1) shall be in force for a period of six months only, but the State Government may, by a like Order published in like manner extend it for any period, not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient to do so.

- (4) Upon the issue of an Order under sub-section (1)-

- (a) no person employed in any essential service to which the order relates shall go or remain on strike;

- (b) any strike declared or commenced whether before or after the issue of the order, by persons employed in any such service shall be illegal.

- (5) Any order made under this section may, at any time be rescinded by the State Government by a like order, but such rescission shall not affect the previous operation of anything done or suffered thereunder, and shall not affect any obligation or liability accrued or incurred, or any penalty or punishment incurred in respect of any offence committed against this Ordinance before such rescission;

Penalty for illegal strikes, instigation and for giving financial aid.

- 4. Any person who commences strike which is illegal under this Ordinance, or goes or remains on, or otherwise takes part in, any such strike, or instigates or incites other persons to take part in, or otherwise acts in furtherance of a strike, or knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance shall be punished with imprisonment for a term which may extend upto seven years or with fine which may extend to two thousand rupees, or with both.

Cognizable and non-bailable offences.

5. The offence under this Ordinance shall be cognizable and non-bailable and any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under this Ordinance.

Dismissal of employed participating in illegal strikes.

6. (1) Any person who commences a strike which is illegal under this Ordinance or goes or remains on, or otherwise takes part in any such strike, or instigates or incites other persons to take part or knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance, shall in addition to any action under Section 4 be liable to disciplinary action including dismissal in accordance with the same provision as are applicable for the purpose of taking such disciplinary action on any other ground under the terms and condition of service applicable to him in relation to his employment.

(2) Notwithstanding anything contained in any other law, rule, regulation or order the disciplinary authority may use the material or finding of a court trying an offence under this ordinance and on the basis of the said findings and judgement of the said court, may award any punishment including dismissal on the person under the terms and conditions of service applicable to him in relation to his employment.

Bar of legal proceedings.

7. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance or the rules made thereunder.

Swaraj Kaushal
Governor Mizoram

K.N. Srivastava,
Secretary to the Govt. of Mizoram,
Law, Judicial & Parliamentary Affairs Deptt.