

THE ANDHRA PRADESH PREVENTION OF DISFIGUREMENT OF OPEN
PLACES AND PROHIBITION OF OBSCENE AND
OBJECTIONABLE POSTERS AND ADVERTISEMENTS ACT, 1997

(ACT NO. 28 OF 1997)

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THE ANDHRA PRADESH PREVENTION OF DISFIGUREMENT OF OPEN
PLACES AND PROHIBITION OF OBSCENE AND
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ACT No.28 OF 1997

[17th September, 1997]

AN ACT TO PROVIDE FOR PREVENTION OF DISFIGUREMENT BY
OBJECTIONABLE OR UNAUTHORISED ADVERTISEMENT OF PLACES
OPEN TO PUBLIC VIEW AND FOR THE PROHIBITION OF PRINTING,
PUBLISHING AND DISPLAY OF OBSCENE POSTERS RELATING TO
CINEMAS AND FOR MATTERS CONNECTD THEREWITH OR
INCIDENTAL THERETO:

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh
in the Forty-eighth Year of the Republic of India, as follows:-

CHAPTER - I
PRELIMINARY

1. Short title, extent and commencement - (1) This Act may be called the
Andhra Pradesh Prevention of Disfigurement of Open Places and Prohibition of
Obscene and Objectionable Posters and Advertisements Act, 1997.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the State Government may, by
notification in the Andhra Pradesh Gazette, appoint.

2. Definitions - In this Act, unless the context otherwise requires,-

(a) "advertisement" includes any notice, circular, handbill, label,
wrapper or other document and also includes any visible
representation made by means of any light, sound, smoke or gas;

(b) "authority" means an authority constituted under section 9;

(c) "Government" means the State Government of Andhra Pradesh;

(d) "notification" means a notification published in the Andhra
Pradesh Gazette and the word "notified" shall be construed
accordingly;

(e) "objectionable advertisement" means any advertisement:-

(i) which is likely to incite any person to commit murder,
sabotage or any offence involving violence; or

(ii) which is likely to seduce any member of the armed forces
of the Union or of the Police forces from allegiance or his
duty, or prejudice the recruiting of persons to serve in any
such force or prejudice the discipline of any such force; or

(iii) which is likely to incite any section of the citizens of India
to commit an act of violence against any other section of the
citizens of India; or

(iv) which is deliberately intended to outrage the religious
feelings of any class of the citizens of India by insulting or
blaspheming or profaning the religion or the religious beliefs
of that else; or

(v) which is grossly indecent, or scurrilous or obscene or is
intended to black-mail.

Explanation:- An advertisement shall not be deemed to be
objectionable merely because words or signs or visible
representations are used,-

(1) expressing disapprobation or criticism of any law or of

any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means;
(2) criticizing any social or religious practice without malicious intentions and with an honest view to promote social or religious reform or social Justice;

(f) "place open to public view" includes any private place or building, monument, statue, post-wall, fence, tree or other thing or contrivance visible to a person being in, or passing along, any public place;

(g) "poster" means any printed, typed, hand written, cyclostyled or xeroxed matter or design or pictorial representation usually meant to be displayed as a playcard or pasted on any wall, building, hoarding or other place open to public view whether by cinematograph exhibition or otherwise but does not include the exhibition of a cinematograph film inside the auditorium of a cinema theatre;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "Public place" means any place (including a road, street or way, whether a thoroughfare or not and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass.

CHAPTER - II PREVENTION OF DISFIGUREMENT OF OPEN PLACES

3. Penalty for disfigurement by objectionable advertisements –

Whoever affixes to, or inscribes or exhibits on any place open to public view any objectionable advertisement, shall be punished with imprisonment of the either description for a term which may extend to one year or with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees or with both.

4. Penalty for unauthorised disfigurement by advertisements –

Whoever affixes to, or inscribes or exhibits on any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which shall not be less than one thousand rupees but which may extend to two thousand rupees, or with both.

5. Punishment of abettors - Whoever in any manner whatsoever causes, procures, counsels, aids, abets or is accessory to, the Commission of any offence under section 3 or section 4 shall be punished with the punishment provided for the offence.

6. Power to remove, erase, pull down and destroy objectionable advertisements - (1) Any police officer not below the rank of a Sub-Inspector or any other officer empowered in this behalf by the Government may remove, erase, or otherwise pull down any objectionable advertisement.

(2) Any advertisement removed or pulled down under sub-section (1) or a photograph of any advertisement erased under that sub-section shall be produced before a Magistrate of the First Class and if, in the opinion of the Magistrate, such advertisement is an objectionable advertisement, the Magistrate may cause the advertisement or the photograph thereof to be destroyed after giving an opportunity of hearing to the advertiser wherever he is known and where he is not known after recording that fact, but if in the opinion of the Magistrate such advertisement is not an objectionable advertisement the Magistrate shall dispose it of in the manner provided in sections 457, 458 and 459 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in the case of an advertisement which is erased make an order that it shall be restored at the cost of the Government.

CHAPTER - III
PROHIBITION OF OBSCENE POSTERS ETC

7. Obscene Poster -A poster shall be deemed to be 'obscene' if,-

- (a) its effect is to tend to debase and corrupt persons who are likely, having regard to all relevant circumstances, to read or see the matter contained or embodied in it;
- (b) it holds out or recommends to the public anything to be used as, or suggestive of, a sexual stimulant;
- (c) it undermines the accepted canons of decency or encourages vicious or immoral acts;
- (d) it lowers the sacredness of the institution of marriage or depicts scenes of rape, criminal assault on women or other immoralities;
- (e) it exhibits the human form in a state of nudity or indecorous or sensual posture; or
- (f) it encourages lasciviousness or arouses impure and lecherous thoughts.

8. Prohibiting of printing, publishing or displaying obscene posters -

Notwithstanding anything contained in any law or contract to the contrary but subject to the provisions of this Act, no person shall print, publish, distribute or display or cause to be printed, published, distributed or displayed any obscene poster relating to a cinema in any public place.

9. Constitution of Authority for determination of questions relating to obscenity of poster - The Government may, as soon as may be after the commencement of this Act, by notification constitute an authority or authorities for the purpose of determining all questions relating to obscenity of a poster.

10. Penalty - Every person who contravenes the provision of section 8 shall, on conviction, be punishable with imprisonment which may extend to six months or with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees or with both.

11. Power to make search and seizure - (1) The Commissioner of Police in the twin cities of Hyderabad and Secunderabad, Visakhapatnam and Vijayawada and the District Collector elsewhere may,-

- (a) enter and search at all reasonable times with such assistance, if any, as he considers necessary any place in which he has reason to believe that an offence punishable under this Chapter, has been or is being committed;
- (b) seize, and detain any material which he has reason to believe contravenes any of the provisions of this Chapter;
- (c) examine any record, register, document or any other material or object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Chapter.

(2) Where any property is seized under sub-section (1), such seizure shall be reported to a Magistrate forthwith, and the provisions of Chapter XXXIV of the Code of Criminal Procedure, 1973, (Central Act 2 of 1974) shall apply to the custody and disposal thereof or as they apply to property referred to therein.

(3) The Commissioner of Police or the District Collector may, by order, delegate the powers under this section to an officer not below the rank of an Inspector of Police or a Mandal Revenue Officer (Gazetted).

12. Forfeiture - Where a person has been convicted by any court for contravening any provision of this Chapter or any rule relating thereto, the court may direct that any poster or other document (including all copies thereof), articles or things in respect of which the contravention is made, shall be forfeited to the Government.

13. Compounding of offences - (1) The Commissioner of Police in the twin cities of Hyderabad and Secunderabad, Visakhapatnam and Vijayawada and the District Collector elsewhere may accept, from any person against whom a reasonable suspicion exists that he has committed any offence punishable under this Chapter, such sum of money as may be prescribed by way of composition for the offence which such person is suspected to have committed.

(2) On the payment of such sum of money to the Commissioner of Police or the District Collector, as the case may be the suspected person, if in custody, shall be discharged and no other proceedings shall be taken against him.

CHAPTER - IV MISCELLANEOUS

14. Offences by Companies - (1) Where an offence has been committed by a company, every person who, at the time when 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 offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained 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 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 company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company 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.

15. Certain offences to be cognizable - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) the offences punishable under sections 3 and 4 shall be deemed to be cognizable offences within the meaning of that Code.

16. Cognizance of offences - No court shall take cognizance of any offence punishable under this Act except on a complaint filed, in the twin cities of Hyderabad and Secunderabad, Visakhapatnam and Vijayawada by the Commissioner of Police or by any Police Officer not below the rank of an Inspector of Police authorised by him in this behalf and elsewhere by the District Collector or any Officer not below the rank of a Mandal Revenue Officer authorised by him in this behalf.

17. Protection of action taken in good faith - No suit, prosecution or other legal proceeding shall lie against the Government the authority any local authority or any public servant or person, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rule made thereunder.

18. Burden of proof in certain cases - Where a person is prosecuted for committing an offence under section 4, the burden of proving that he has the written consent referred to in that section shall be on him.

19. Power to issue directions - The Government may, from time to time, issue such directions not inconsistent with the provisions of this Act or the rules made thereunder as they may think fit, setting out the principles which shall guide the authority in discharging its duties under this Act.

20. Act to override other laws - The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a Court or other authority.

21. Power to remove difficulties - (1) The Government may for the purposes of removing any difficulty, by order published in the Andhra Pradesh Gazette, direct that the provisions of this Act shall, during such period as may be specified in the order, have effect subject to such adaptations whether by way of modification, addition or omission as they may deem necessary or expedient:

Provided that no such order shall be made after two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before the Legislative Assembly of the State.

(3) No order under sub-section (1) shall be called in question in any court on the ground that no difficulty as is referred to in sub-section (1) existed or was required to be removed.

22. Power to make rules - (1) The Government may by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.