

RAILWAY PROPERTY UNLAWFUL POSSESSION ACT 1966

**along with
Railway Protection Force
Act 1957 and Its
Rules and Regulations**

Hasan Askari

With a foreword by
Hon'ble Mr. Justice S. Murtaza Fazal Ali



EASTERN BOOK COMPANY

Railway Property (Unlawful Possession) Act, 1966

together with

R. P. F. Act, Rules and Regulations

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Dedication

An Officer of the U. P. Police who fought bravely with the dacoits, received bullets on his chest and laid his precious life for the nation on 25th of January, 1964 at Police Station Bara Sagwar, Distt. Unnao. The President of India inscribed his name in golden letters on Police Medal for Gallantry (Posthumous).

This book is respectfully dedicated to the memory of this great patriot late Sri Bakhshish Husain who was my father.

Author

JUSTICE S. MURTAZA
FAZAL ALI



Judge, Supreme Court
of India
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FOREWORD

I have gone through the book written by Mr. Hasan Askari, Chief Law Instructor, Jagjiwan Ram R.P.F. Training College, Lucknow which is a very critical and scientific commentary on the Railway Property (Unlawful Possession) Act, 1966. The author has taken great pains to highlight certain important aspects of the Act, hitherto unknown and unexplored. The Act assumes much greater importance in view of the recent spate in the incidence of train robberies and cases of pilferage. The Act contains salutary provisions for the prevention of the offences against Railway property and a well regulated procedure for detecting the crimes committed in respect of the same. The author has highlighted the various aspects and facets of the provisions of the Act pointing out the constitutional phases also. The author has also made a comparative study of the various provisions of the Act qua other Acts and has laid great emphasis on the efficacy of the Act if properly understood and meaningfully interpreted and implemented. Having gone through the entire script, I am of the opinion that the book is a very useful piece of legal literature and fulfils the paramount need of the hour. The very scientific and legal fashion in which the various provisions of the Act have been analysed and explained makes the book a treat for the legal intelligentsia. I highly commend the book for a deep study to all persons who are interested in the detection and punishment of the crimes dealt with by the Act.

S. MURTAZA FAZAL ALI



Judge, Allahabad High Court,
Lucknow.

APPRECIATION

The Railway Property (Unlawful Possession) Act, 1966, though a comparatively minor criminal law has been enacted to meet the growing challenge to the pilferage of railway property—a great national asset. There have been here certain departures from well recognised norms for the proof about criminality. It, therefore, required a proper elucidation of the various provisions of the Act.

Sri Hasan Askari has done a service to the legal literature by bringing out a commentary on this subject. And none is more suited for the job than him. As a chief law instructor, he has been busy in explaining the various features of this Act to the trainees who are to enforce the Act when they go back to their jobs. He has really taken great pains and has exhaustively dealt with the salient features in a very lucid style. He has cited all the important case-law including pronouncements of the Supreme Court. For the facility of readers, he has brought out ratio decidendi and obiter part of a case separately. That will also help in the growth of what is called 'judicial legislation'. Considering that this is his first venture, I congratulate Sri Askari for the same.

I do hope that the book would be of great use not only to the trainees but also to lawyers and courts alike.

MAHAVIR SINGH



Dy. C. S. O. & Principal
Jagjiwan Rain
R. P. F. Training College,
Talkatora Road, Lucknow.

I have gone through the notes on the Railway Property (Unlawful Possession) Act, 1966 prepared by Shri Hasan Askari, Chief Law Instructor. The need for such comprehensive notes on the subject was being felt for a very long time and I am glad that Shri Hasan Askari has taken pains to bring out the necessary documents with the latest Rulings given by the various High Courts in India and also the Supreme Court. Shri Hasan Askari deserves to be highly congratulated for the efforts.

I am sure when these notes are published in the form of a book, they will be of immense help not only to the trainees in the college but to the entire Force and even the Bar in understanding the law on the subject.

HARISH CHANDER



DEAN
FACULTY OF LAW
Lucknow University

Mr. Hasan Askari, Chief Law Instructor, R. P. F. Training College, Lucknow, is to be congratulated in undertaking to write a critical commentary on the Railway Property (Unlawful Possession) Act, 1966, as amended up to date, because, generally efforts at critical writing in law are confined to important Acts or Codes neglecting to note phenomenal changes that keep on occurring when the legislature undertakes to tackle problems of the magnitude evidenced by mounting thefts and misappropriations of railway property. I hope that the lead given by Mr. Askari is taken up by other experts in different fields where new extensions of criminal sanctions are occurring giving to the traditional notions of criminal law a different and changed complexion. If for nothing else, for this effort alone the author deserves great credit.

The author has in his commentary pointed out the diversions from the traditional theories that the Act embodies and has analysed case-law briefly but critically. The special merit of the book is also the statistics of the crime under the Act and the analysis of the manner of its enforcement. This required a lot of field work and intelligent tabulation and trained analysis. The book is thus not a traditional commentary of the Act but a commentary with enforcement data, and its evaluation. I commend the book to both lawyers and enforcement officers who, I am sure, will benefit immensely by it.

L. N. TANDON

PREFACE

The fate of any suspect or accused is determined by two legal agencies ; an investigating agency sponsors the case and the judicial agency adjudicates upon it. They are jointly responsible for the administration of justice, but other persons from different walks of life make their own specialised contribution in it like, press, informers, witnesses, experts and above all, lawyers and authors.

The judiciary in India is already learned with highest standard of education and experience. The brilliant lawyers are always there to assist the judges. As such, the cases are decided after careful consideration in due course of time with all the mental peace in reasonably comfortable court rooms.

Unfortunately these facilities are not available to the investigating agency. They have to work very quickly and take spot decisions under the hazards of the disturbed law and order, political pressures, physical strains at very odd hours of day and night. They lay down the foundation of the case under such circumstances where they have no brilliant lawyers to assist them on legal matters. They have to depend upon their own knowledge and this is where the authors come in whose duty is to educate this agency in such a style that might compensate the shortcomings of this agency on the one hand and give scientific interpretation to law having reflections of the socio-economic changes in the society on the other without losing the fundamental norms.

What impelled me to write this book was this idea. I have tried to consolidate the law relating to inquiry and investigation under the R. P. (U. P.) Act, 1966 in the light of the latest interpretations given by the Hon'ble Supreme Court and various High Courts of India. All relevant cases have been discussed, their ratio decidendi separated from obiter dictum and natural conclusions drawn. They have therefore, laid down the guide-lines to deal with the difficult situations during search, arrest, registration of the cases, investigation inquiry and trial. A comprehensive appendix for a compact study of this book has been attached which includes relevant sections of I. P. C. Indian Railways Act, the Police (Incitement and Disaffection) Act, the Opium Act, the Arms Act, the Identification of Prisoners Act, the Telegraph Wires (Unlawful Possession) Act, the Motor Vehicles Act, besides R.P.F. Act, R.P.F. Rules, R.P.F. Regulations and all necessary circulars, standing orders and amendments.

What is considered indispensable for the investigating agency is the 'broad outlook', constitutional background and confidence for handling any situation. These qualities can be cultivated in the young officers by giving them job-oriented training with a straightforward legal approach. When a thing is created by law, it has to work strictly within that law and in that, the Police and R.P.F. are no exceptions.

The colonial norms shall have to yield place to the new order evolved by democracy, socialism, fundamental rights, directive principles, over-population, unemployment and science. The Hon'ble Supreme Court has already given a lead in various cases decided in the recent past like *Sunil Batra's case*¹, *Kishore Singh Ravinder Dev v. Rajasthan*², *Nandini Satpathy's case*³, to quote a few.

We have therefore, started our journey on the path of this new order where every minute brings changes. I have tried to keep pace with these fast changing concepts in the criminal jurisprudence. Any improvement in it coming from any source would be welcomed.

Lucknow,
18th April, 1981.

—Author

1. (1978) 4 SCC 494: 1979 SCC (Cri) 155.

2. (1981) 1 SCC 503.

3. (1978) 2 SCC 424: 1978 SCC (Cri) 236.

ACKNOWLEDGMENTS

For this work, I am indebted to Shri Harish Chander, our worthy Principal of the All India R. P. F. Training College. He entrusted upon me the pious job of writing this book. In my case, the words suffer with great limitations in expressing my heartfelt regards to him.

The epochal achievement of this work is to have invited the attention of the Hon'ble Mr. Justice S. Murtaza Fazal Ali of the Supreme Court of India. I am overwhelmed with a profound sense of gratitude for the Foreword the learned Judge has very kindly written.

I intend to pay my sincere respects to Mr. Justice Mahavir Singh of the High Court of Allahabad. His sincerity and devotion to law have held me all through and infused inspiration in abundant measure.

I have the honour to say that I had the blessings of Dr. L. N. Tandon, a legal luminary and Dean, Faculty of Law, University of Lucknow, U. P. in writing this book.

At the end, I may be failing in my duty if I don't thank Shri M. P. Tiwari, Vice Principal, Shri V. Kumar, M.A., LL. B., D. P. A. our Law Instructor, his son, Shri N. Kumar and my colleague, Shri M. L. Daug, Fire Officer for their most valuable help. My better-half Mrs. Rani as usual steals the credit of decorating this work with the relevant charts.

I have a word of sincere appreciation for Shri Surendra Malik, LL. M. (Columbia), Editor, Supreme Court Cases, who has honoured an unknown author like me by rendering all possible help in bringing out this beautiful volume.

CORRIGENDA

- Page 3 *Above Preamble add '16th September, 1967'.*
- Page 35, line 1 *For 'A superior officer' read 'Any superior officer'.*
- Page 49 *In heading to Section 7, for 'person' read 'persons'.*
- Page 70 *In heading to Section 9, for 'Powers to summon person' read 'Power to summon persons'.*
- Page 83 *Read in heading to Section 11 as 'searches and arrests how to be made'.*
- Page 95 *Add heading to Section 12, 'Officers required to assist'.*
- Page 95 *Add heading to Section 13, 'Power of courts to order forfeiture of vehicles, etc.'*
- Page 100 *Add heading to Section 14, 'Act to override other laws'.*
- Page 101 *Add heading to Section 15, 'Construction of references to laws not in force in Jammu and Kashmir'.*
- Page 101 *Add heading to Section 16, 'Repeal and Savings'.*
- Page A45 *Paras 6 to 11 of the Regulations may be ignored. Instead read Rule 5 of R. P. F. Rules as printed on p. A15.*
- Page A68 *Below heading of Chap. VI read: 'Note.—There is no Armed branch now in the Force but the chapter has been included to understand the new set up of R. P. S. F.'.*
- Page 99 *In para 1 of Chap. X, read the following branches of the Force instead :*
 (i) Executive Branch,
 (ii) Prosecution Branch, and
 (iii) Fire Service Branch.
- Page 99 *In para 2 of Chap. X, for the table read :*

Designation	Scale of Pay
1. I. G.	2500—125/2—3000 (as fixed by Govt.)
2. CSO/DIG	2260—125—2503 (as fixed by Govt.)
3. Dy. C. S. O.	1500—60—1800 100—2000
4. S. O./Commandants	1100—50—1600
5. A. S. O.	650—30—740—35— 810—EB—35— 880—40—1000— EB—40—1200

- Page 100 *In Chapter X, para 4, read the following table instead :*

Designation	Pay
(1) Inspector Gr. I	700—30—760—35— 900
(2) Inspector Gr. II	470—15—530—EB— 20—650—EB—25—750

(3) Sub-Inspector	330—10—380—EB— 12—500—EB—15 560
(4) Asstt. Sub-Inspector	260—6—290—EB— 6—326—8—366— EB—8—390—10—400
(5) Head Rakshak	225—5—260—6—290 —EB—6—308
(6) Senior Rakshak	210—4—250—EB— 5—270
(7) Rakshak	200—3—212—4— 232—EB—4—240

Page A 106

Para 2, line 2, *for* "Sub-Inspector" *read* "Sub-Inspector Grade II".

Page A 119

In heading *for* para 5, *for* "Inspector Grade III" *read* "Inspector Grade II".

Page A 124

Para 9, *read* as follows :

"No grade to grade promotion in the rank of Sub-Inspector can now be given because there is only one grade in Sub-Inspector's rank".

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9. M. L. DHUPAR ON R. P. (U. P.) ACT

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INTRODUCTION

SYNOPSIS

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| 1. History of the R. P. F. 1882-1957 | 3. Salient features of R. P. (U.P.) Act |
| 2. History of R. P. (U. P.) Act | 4. Analytical approach |

The history of crime is as old as the civilization itself; the commercial awakening and the sense of its security are twins; the ancient trade through boats had to be protected from the pirates, while the modern trade through railways has to be protected from the criminals.

1. History of the R. P. F. 1882-1957

The railways while in rudimentary stage in India during 1882, first appointed watchmen for its various departments, who worked satisfactorily up to 1921; when Government of India appointed a committee to review the whole watch and ward system on the railways. With the breaking out of the World War I and II, the traffic on railways increased tremendously making it more and more vulnerable for the criminals. The watch and ward system therefore having failed, the Director of the Intelligence Bureau, Ministry of Home Affairs, Government of India recommended for one statutory security organisation with a central command in 1954, while the Railway Board appointed a Security Adviser to work out the details for the reorganisation of the system. The offspring was the replacement of the watch and ward by the R. P. F. under the Railway Protection Force Act, 1957.

2. History of the R. P. (U. P.) Act

The railway crimes, however, continued to be detected, investigated and prosecuted by the State police or the Government Railway Police under the Railway Stores (Unlawful Possession) Ordinances, (Ordinance No. XIX of 1944) which was inapplicable to Part B States and after its repeal under the Railway Stores (Unlawful Possession) Act, 1955. With the further increase of the crime on the whole, the State police remained preoccupied with the law and order problems, left with little time for the specialised nature of the railway crimes.

This along-with some serious working defects in the Railway Stores (U. P.) Act, 1955, brought about the R. P. (U. P.) Act in the year 1966. This Act not only repealed the Railway Stores Act, 1955 but also extended better legal coverage to the railway property on account of its following salient features—

3. Salient features of the R. P. (U. P.) Act

- (i) The officers of the R. P. F. are vested with the powers of investigation and prosecution of the unlawful possession of the railway property while under the repealed Railway Stores Act, 1955 this power vested in the State police.
- (ii) The definition of the railway property has been extended to include booked consignments also while under the old Act, booked