

## CHAPTER 14

### **MAINTANANCE OF LAW & ORDER**

#### **Introduction**

297. Preservation of peace and maintenance of order in the society is the primary and basic duty of the police department. Peace and development go hand in hand. If there is peace, tranquility and order in the society, development and progress of various sorts take place in a natural way. On the contrary, if there is an atmosphere of disorder, disturbance and uncertainty, the overall development of the society will be a natural casualty. In a democratic society freedom of expression is a fundamental right, and at the same time in a plural society like India, there is every possibility of difference of opinion and consequent the dissention in the opinions, values and thoughts is likely to cause confrontation and conflicts among various groups. Such situations, if not regulated, controlled and contained, they are likely to create serious situation of law and order.

#### **Law & Order : Concept and Dimensions**

298. The field police officers should realize that society is full of factors and potentials which might cause disruption to normal peaceful conditions. Police, therefore should always keep a close watch on various social, political, economic, religious, cultural and other activities and issues so that these might not take an ugly turn and convert themselves into situations of law and order. All activities though normal may obtain abnormal dimension, and might cause

breach of peace and tranquility to create a situations of law and order for the police. The concept of law and order therefore is based primarily on the presumption that any normal situation, by seen or unseen, sudden or deliberate, accidental or intentional reason can become abnormal and thereby obtain a dimension of ordinary or serious law and order situation. The concept of law and order is a multi-faceted and multi-dimensional nature. The police, therefore, are required to handle a large variety of law and order situations including student unrest, political agitation, social demonstration, cultural and religious processions, industrial agitation, various types of strikes, Dharnas and Gheraos etc. Each of the above categories of law and order situation would have its own specific and special contexts and the police will have to tackle it accordingly.

### **Perspectives on Law and Order**

299. Riots and other disturbances take place due to socio-economic and political frictions, communal, caste, regional, industrial, agrarian and political disturbances. Criminal, goonda, gangs and unsocial elements provoke these disturbances and add fuel to the fire. The disturbances cause widespread panic, physical assaults, bodily injuries, murders, lootings, rapes and forcible closure of business establishments and shops and may create situations of intimidation. There inhuman acts take place posing a challenge to the efficacy of the police and the good governance of the government in dealing with these disturbances. Police have an onerous and difficult duty in tackling such situations with all the legal means available at their command.

## **Riots**

300. No crime is so dangerous to the peace, harmony, life and well being of the people as riots. Widespread riots for any duration paralyze trade, free movement of people depriving their normal means of livelihood shaking the confidence in the police and the government. It is the prime duty of the police to prevent the commission of breach of peace by gathering intelligence to nip it in the bud. The police may later have to take effective measures in controlling the disturbances. Primarily, it is the duty of the law and order police to control these disturbances as per situation with the assistance of other wings of the department like Reserve Police, Spl. Police, Central Paramilitary Forces etc. as per the need. Each situation calls for different ways of dealing and adopting measures suiting to the laws and the needs.

### **Collection of Information**

**301-1.** One of the most important duties of the police is the collection of information about every movement, state of feeling, dispute or incident, which may lead to a breach of peace, and the communication of such information to the concerned authorities with a view to take action or to use the information for the purpose of preventing or detecting crime or preventing breach of peace. All police measures and actions, their efficacy and use entirely depend on the intelligence gathered and its use. In dealing with the situations described in this Chapter information on the following lines is absolutely essential and should be gathered by the SHO, SDPO and other senior officers apart from the specialized units meant for the purpose.

### **Police Action at the Grass Root Level**

- 1-A. Consult station records to identify the occasions when breach of peace is likely, its nature, the places and potential troublemakers. It is necessary that all records are accurate and updated.
  - B. Visit the place and assess public feeling and likely trouble.
  - C. Contact persons who command respect and confidence of rival groups.
  - D. Gather information from all possible sources
  - E. Read and follow thoroughly the communications and instructions from superior officers
  - F. Confer and ascertain full details from beat police and other police staff
  - G. After the evaluation and assessment of the problem in all its aspects with reference particularly to the persons, places and nature of trouble, police officers shall decide on surveillance, preventive arrests, promulgation of regulatory or prohibitory orders, arrangements to be made to contain and control trouble, the specific briefing to all Police Officers to be deployed including arrangements for their accommodation, food, etc. if the assessment reveals need for extended period of deployment.
2. It is the prime duty of the police to prevent the commission of cognizable offences. In such endeavour they should enlist the assistance of influential persons in communities in mitigating the situation and see that they exercise their influence in controlling the situations. The help from Community Liaison Group is highly desirable in this regard.

3. All HCs and PCs of the beat area should be instructed to take help of village officials and keep vigil and report from time to time on the meetings, both public and secret, handbills distributed and rumours set afloat by mischievous local elements or outside agents.
  4. A striking force of adequate police strength should be mobilized and kept ready for attending to any sudden outbreak of mob violence. Besides this all riot control equipments like water cannon, concertina coils, gas guns, firearms and ammunition, helmets, shields, tear gas shells, shock batons, baton rounds (rubber/plastic bullet), lathis etc. should be kept ready for use.
  5. Precautionary measures for preventing or dealing with such disorders depend upon a number of factors, including the cause of friction, the nature of the particular dispute, whether the danger is continuous or associated with a particular festival or occasion, and the influence of the leader of the communities. Experience has shown that adequate precautions taken in proper time tend to inspire confidence among several communities and check the misguided zeal of irresponsible elements. Arrange frequent patrolling if assessment reveals possible breach of peace. Such a precaution signals police preparedness and acts as a deterrent to possible troublemakers and inspires confidence among public.
  6. Pay utmost attention to fasts, feasts and festivals of different communities occurring at the same time. Work out mutually acceptable arrangements; reconcile conflicting approaches or disputes with the help of rival local leaders. But do not be misled by promises and assurances and make necessary arrangements as a precaution.
5. Keep the concerned Executive Magistrate informed in writing to be available. Police Officers should remain in close touch with the magistracy during situations of anticipations and actual breach of

peace.

8. When tensions and feelings run high, a clash in a large town develops into serious and widespread trouble. Precautionary measures need to be taken on this assumption as such steps will prevent and stop clashes in other areas apart from containing spread of trouble.

### **Police action if situation deteriorates**

9. At times, disorders get a firm foothold before the necessary arrangements are made and forces arrive to control and bring about normalcy. In such an event ordinarily, the trouble assumes the form of gang attacks, kill and run tactics in localities where one community is weak and the police are inadequate to prevent it. Widespread looting and arson will often be features of this stage. The following measures have proved to be of value in such situations.
  - A. Promulgation of orders under section 144 & 144 A CrPC including curfew, prohibiting the holding of meetings, delivering of speeches, assembling of persons, carrying of weapons, taking out processions, or other acts from which a breach of the peace can be apprehended.
  - B. In cases of dispute that occasion the breach of the peace relating to land or water or to boundaries of land or water, action under sections 145 to 148 of CrPC is appropriate and must be taken. Copies of reports to Magistrates for action u/s 144, 144A or 145 of CrPC should be sent to the concerned superior Police Officers.
10. If the prospect of averting trouble is not encouraging take the following steps:
  - A. Concentrate a sufficiently large police force that can be gathered in

the vicinity of the scene of trouble. But where trouble is anticipated a show of strength, is sometimes sufficient to avoid untoward developments. The police force should be strong enough to deal promptly and effectively with major or minor incidents. Route marches by police columns through the affected areas help in containing and the spread of incidence.

- B. Arrangements must be made for patrols and pickets and for the establishment of communications between the various police parties and the police headquarters.
- C. The deployment in such situations should be to contain large-scale trouble and quick return to normalcy. Hence aimlessly scattering and thinning out the police force should be avoided otherwise it may result in not being able to prevent anything anywhere. The thinned out forces get submerged helplessly in the cauldron of mob violence. All deployment should ensure communication between all pickets, patrols and striking forces both in terms of equipment and physical mobility between each point. In short physical contact by foot or transport should be ensured between one point and other when police are deployed. All should be closely knit to be able to press maximum resources where most needed in the shortest time.
- D. SDPOs, SP should be present on the scene of the trouble and should not leave the situation to be handled by subordinates alone, but at the same time without taking away initiative from them.
- E. Mobile patrols in a vehicle with a Magistrate and motorcycle patrols in a town are more valuable form of patrol in a town.
- F. Precautionary measures should include, action u/s 151 CrPC against goondas, rowdies, suspects, bad characters and the persons likely to create trouble. Since the effect of an arrest u/s 151 CrPC is only for 24 hours even if remanded to judicial custody, a specific offence must be made out in case he is to be kept in custody for more than 24

hours.

- B. In respect of breach of peace due to communal, caste or other problems, preventive detention can be resorted to. When public property is destroyed in the course of riots or agitations action can be taken under the Prevention of Damage to Public Property Act 1984.

### **Dispersal of Unlawful Assembly**

- H. For the dispersal of unlawful assemblies by use of force 3 important conditions should be fulfilled. (1) that there is an unlawful assembly; (2) such an assembly is ordered to disperse; and (3) in spite of the orders the assembly refused to disperse. The force to be used is the minimum required to disperse the unlawful assembly. The quantum of the minimum force to be used differs from situation to situation and depends on the nature of crowd and its activities etc.
  - J. In appropriate cases, those who incite class hatred should be proceeded against under section 153-A IPC. Tendency towards disorder should be nipped in the bud and the actual outbreaks handled effectively with the least possible delay and the minimum loss or damage to life and property.
  - K. The government desires that local officers, charged with the maintenance of law and order take prompt measures to deal with communal agitation from the beginning and on no account allow the situation to deteriorate. They should keep the DM and the SP informed of the developments by quickest means from time to time, and seeks instructions when necessary.
12. There will be salutary effect if arrests of those responsible are made immediately on the spot. Where the clash takes the form of mob fighting, there should be no hesitation to disperse it by use of force. Use of firearms at a mob should be only as a last resort when all other measures have failed to save the lives and property of the people. However the decision to open fire to control mob should be

taken quickly and the situation should not be allowed to go out of hand due to in-decision or delay in taking decision to open fire.

### **Riot Scheme and Police Action**

13. A riot scheme should be drawn up for every important town for each category of riot like communal, caste, regional or political. These schemes should be practiced every half-year. The object of the practice is to ensure that all officers are conversant with the details of the scheme and their duties therein.
14. Cases must be registered promptly, investigated impartially and prosecuted successfully under the close supervision of SDPOs. If need be, a separate investigation team should be formed during the period of riots.
15. Whenever there is a shortage of manpower, special police officers can be appointed under the Sikkim Police Act 2008.

### **Action when situation is under control**

16. When the situation has been brought under reasonable control the following measures should be taken.
  - A. Police deployment should ordinarily continue, though on a reduced scale, until confidence is restored.
  - B. Orders passed under section 144 CrPC, 144A CrPC may be continued for some time since this helps in preventing panic.
  - C. If curfew has been imposed, a relaxation for a few hours depending on situation may be given to start with and later it can be gradually withdrawn when situation returns to normal.
  - D. The assistance of non-officials is of greater value during the conciliation stage and it should be fully availed.

E. Senior Police Officer must assess the situation promptly and leave the scene when they are fully satisfied that the situation is brought under control without taking complacence haphazardly.

F. Case reported during riots should be promptly investigated and finalized.

## **Legal Powers to deal with Breaches of Peace**

### **Licensing power for assembly or procession**

- 302-1.** Section 156 of The Sikkim Police Act 2008 empowers Dy.SP and above to notify requiring license by all persons conducting a meeting or a procession in public places or thoroughfares. If the Magistrate or an Officer not below the rank of Dy.SP is of the opinion that such assembly or procession if uncontrolled is likely to cause a breach of the peace, they are also empowered to issue notice-requiring license by any assembly or procession for the use of music. The officers of the rank of Dy.SP and above issue these licenses.
2. As per the direction of Government, such order shall specify the duration for which the license is required.
  3. A procession or an assembly which violates the conditions of a license granted under section 156 of The Sikkim Police Act, 2008 may be ordered to disperse by any magistrate or any Police Officer not below the rank of Sub Inspector of Police authorized in this behalf by the SP. If the procession or the assembly so ordered to disperse neglects or refuses to obey the order, it shall be deemed to be an unlawful assembly under chapter VIII of the Indian Penal Code 1860.

### **Instructions for the guidance of officers in regard to processions**

- 303-1.** Public have a right to pass in procession with music subject to the known rights of a community by convention or religious practices or

due to Judgment of courts or by recognized rights and mutual understanding.

2. The enforcement authorities should play an impartial role in implementing the respective right of the parties.
3. If it is apprehended that the enjoyment of the approved practice with respect to any procession will lead to a breach of the peace, it is the duty of the officers concerned to take adequate precautionary measures. Such precautionary measures would include the measures indicated in Order            and also action on the following lines:
  - A. Leaders of factions should be involved from the beginning in the maintenance of order. Help of Community Liaison Group should be solicited.
  - B. Any newspapers carrying on communal propaganda should be cautioned against indulging in any action likely to lead to further disagreements between the communities. The Press Council should also be addressed to ensure compliance to Code of Conduct evolved for reporting communal issues. If it becomes necessary, orders may be passed against them in this matter under section 144 of the Code of Criminal Procedure. All relevant material and its effects should be kept ready to face the challenge to such actions in courts. Freedom of press (expression), a right guaranteed under the Constitution should be respected. But the restrictions if any imposed on such right should be implemented. It should be borne in mind that flow of proper information to the public through press may also bring down tensions and help in restoring normalcy. Hence all Police Officers should assess the situation in its entirety and make proper use of the media to restore peace and confidence.

***Police action during industrial unrest***

**304.** The following orders should be followed by the police on the occurrence of trouble among the workers during strikes or wide spread unrest.

1. Problems in the organized labour are due to economic causes or due to unresolved disputes between management and labourers or sometimes due to vested interests of trade unions. When a strike or a situation that disturbs peace actually recurs, the duty of the police is only to preserve peace and not to interfere in or arbitrate on the issues involved. There are several departments under various laws to deal with such disputes. Police are concerned only in prevention of violent activities and destruction of properties. They should however; activate the labour and individual department officials to initiate measures for solution if they feel that clashes or undesirable activity may result if the solution is not found.
2. As in all other law and order situations, timely information on the industries, the subsisting disputes, potential for law and order problems arising, the likely trouble makers, and the nature of violence that may be caused should be gathered by the Local police Station.
3. In particular, it is the duty of the police (a) to prevent breaches of the peace, (b) to secure the safety of property, (c) to secure the safety of general public, (d) to deal with and investigate cognizable cases, and (e) to obtain information on the points referred to in sub-order (6) below.
4. The SHO shall inform the SDPO and the SP at the earliest possible indication of a strike and intimation immediately on its occurrence. The report should contain details of the number of persons affected, the issues involved in the strike and the extent of disorder anticipated. Should the police force of the area be insufficient to cope with the situation, the SP should requisition additional strength from neighboring Sub-Divisions or, if necessary and urgent, from the Reserve Police. The general instructions given in Order also apply

to breaches of the peace caused or likely to be caused by industrial unrest.

5. It is to be remembered that peaceful picketing to prevent non-strikers from attending or resuming work by persuasion, as distinct from force or intimidation, or wrongful restraint is not an offence and does not call for police interference, but only watchfulness and regulation.
6. Information on the following points should be gathered;
  - A. the names of any instigators or the more militant among them of the strike not directly interested in its avowed economic objects.
  - B. the extent to which such instigation is responsible for the strike.
  - C. communication and concerted action with the leaders of other unions and strikes.
  - D. the direct and indirect causes of strikes that may be avowedly political.
  - E. the existence of literature inciting to strike.
  - F. the probable local political effects of the strike.
  - G. the numbers of strikers and the classes to which they belong; and
  - H. the money and resources available and the source thereof.
  - I. the percentage of workers likely to participate in the strike.
7. The most commonly adopted forms of protest are;
  - A. Demonstrations, generally lunch hour by raising slogans
  - B. Picketing or relay fasts, or mass fasts near the gate of the establishment

- C. Wearing black badges
  - D. Work to rule
  - E. Mass casual leave
  - F. Gherao and obstruction of Managers
8. Out of all these Gherao and obstruction only constitute an offence. The basic factor to be remembered is whether any of these assume a violent or abusive form calling for police intervention. The area police should make arrangements to cover demonstrations, hartals etc. so that they can intervene effectively. When information about the Gherao is received the police must rush to the place so that the person restrained is set free.
  9. The cooperation of the labour leaders and responsible workers is very vital in eliminating violence.
  10. In dealing with violent situations inside a factory, particularly containing sophisticated machinery or chemical substances the help of the officers should be secured.
  11. The industrial security personnel, or others posted for security would be in the best position to provide necessary assistance to the police in dealing with the situation. Close liaison should therefore be maintained with them.
  12. Destruction of public property or physical harm to persons, violent street demonstrations in the factory or outside should be dealt with in

accordance with law, with speed and expedition.

13. The police must be aware of the right to protest to seek solution of labour problems in accordance with laid down laws and keep themselves fully informed of the situation in their area so as to act in time wherever violence is likely.

### **Law & Order due to faction**

- 305-1.** The frequent occurrence of factious rioting in certain areas of the state is a definite indication of the challenges, which the police has to face in controlling factious crime effectively. Attention should be paid to factious villages and all steps appropriate should be taken to prevent factious crimes. Impartiality, integrity, promptness and firmness are the most essential qualities required of a police officer in dealing with factions and investigation of factious cases.
2. When a faction comes to notice for the first time, efforts should be made to nip it in the bud. Conciliatory methods may be successful at times. If the faction persists, there should be no hesitation in setting the relevant law in motion. All officers from the SP downwards should visit factious villages and send a message to the factionist that the police would mean business in dealing with any disturbance or crime and follow up with necessary measures. The factious villages shall be covered effectively during day by beat area police officers. Informants should be cultivated and information network built up. Arrests u/s 151 CrPC should be made where necessary.
3. Even a minor incident resulting from a faction should not be ignored. Section 160 IPC and sections 106 and 107 of CrPC shall be used. In all cases under section 107 of the Code the Magistrate should be requested to take interim bonds from the parties. In some cases, it may be necessary to take action under clauses (e) and (f) of section 110 of CrPC against important faction leaders and rowdies. In cases of factious riotings and affray, the Magistrate should be requested to bind over the parties under section 106 of CrPC, in the event of a

conviction. (Refer Chapter on Preventive role of police). In 106, 107 or 110 CrPC cases a person who is capable of ensuring good conduct should be insisted as surety. If police officers furnish all background material on the sureties it will enable the Magistrate to decide whether to accept the surety or not and jail the persons if sureties are not to his satisfaction.

4. Even after the parties to a faction have been bound over under section 106 or section 107 of CrPC, there should be no relaxation of vigilance in regard to that faction, as instances are not wanting in which even after action has been taken under the security sections of the Code of Criminal Procedure, factious parties have committed overt acts and indulged in sudden outbursts of violence. Every such incident, however small including the attempts should be taken cognizance of. The offenders should not only be charged for the specific offence but also action taken for forfeiture of their bonds. If, in spite of all these measures, factionists continue to be active, the Superintendent of Police should have no hesitation to come up with proposals for quartering additional Police in the area.
5. All incidents arising out of a faction should be recorded in the general diary forthwith. An exhaustive note about the faction and its leaders and members with their antecedents, as well as information collected from time to time by Constables of the beat should be made in Part IV of the concerned Village Crime Notebook by the SHO. .

### **Investigation of Factious rioting and murder**

- 306-1.** In a factious rioting, the police should not be content with mere laying charge sheets against both the contending parties, making the prosecution witnesses in one case the accused in the other and vice versa, and put forward their versions to the court without any attempt at finding out the truth. If complaints of the offence of rioting containing two divergent versions are given by the parties, it is the duty of the investigating officer to find out which case is true and lay charge sheet accordingly. The easier course of referring both the case

and the counter-case as undetectable should not be adopted. An impartial, efficient, painstaking and scientific investigation should disclose the true facts of any occurrence. The laying of charge sheets in both the case and the counter-case should be resorted to only in cases of free fight. Factious rioting or murders are often result of meticulous planning and if the Investigating officers thoroughly go back into events prior to occurrence and after the offence, the main organisers will not be able to escape the penal consequences of their actions.

2. When a group takes law into its hands with a view to impose its will or programme upon those opposed to it, the latter have a right conferred upon them to act in defense of their lives and properties. Whenever trouble occurs or anticipated between two parties, the police should distinguish between the aggressor and the victim for the purpose of action under preventive or specific sections of law. Where one party has been forced to act in self-defense, only the aggressive party should ordinarily be proceeded against. This calls for professionalism, impartiality and integrity of high order. Otherwise the aggressor is more than satisfied on the plea that the aggrieved is also charged along with him. The real perpetrators and those behind the factious rioting should not be allowed to go scot-free by merely charge sheeting those under links or henchmen.

### **Dispersal of Mobs**

- 307-1.** The instructions for the dispersal of mobs and for use of fire arms are contained in the Police Drill Manual, besides legal provisions under section 129 to 132 Cr.P.C. District Reserves, Armed Police and Civil Police shall constantly practice these instructions. An unlawful assembly may be ordered to disperse by a Magistrate or officer-in-charge of a Police Station and when so ordered, it is the duty of the members of the unlawful assembly to disperse. If they do not, force may be used to disperse them. Any Police Officer may without warrant arrest the members of an unlawful assembly and thus disperse the assembly. The following points have to be borne in

mind.

- A. The Police must secure the presence of an Executive Magistrate as far as possible where a breach of the peace necessitating the use of force is anticipated. The Executive Magistrate on information or requisition by police should be present at the spot.
- B. When a Magistrate is present at the spot he should be in complete charge of the situation. He has the necessary legal powers to order any Police Officer to assist him in handling the situation.
- C. The senior most Police Officer present is bound to assist the Magistrate by mobilizing the available Police Force and utilizing them as best as possible.
- D. If the crowd becomes defiant and the use of teargas, lathi charge or both are inexpedient or fail in their purpose, use of firearms may be resorted to. The Magistrate is responsible for taking a decision as to when an unlawful assembly has to be dispersed by force and also the kind of force to be used.
- E. After such a decision is taken, the officer-in-charge of the Police is solely responsible for deciding the exact amount of force to be used, the manner of using it and the settling of the details of the operations connected with the use of force, all the time keeping in mind the principle that no more force and no longer than necessary should be used.
- F. When a Police party is formed for dispersing an unlawful assembly, it should be numbered and split off into two or more sections, if the size of the party and the time available admit of it. Each section should be under the charge of an officer. Bayonets must be fixed as soon as possible.
- G. All commands to the Police are to be given by the Officer in command

of the party. The Police are not on any account to open fire except by word of command of their Officer, who has to exercise an extreme caution and discretion regarding the extent and the line of fire.

- H. As soon as it becomes necessary to resort to the use of fire arms with reference to clause (D) above, the officer in command of the party will bring the men to the loading position and give the order to load the ammunition. This will prevent panic in loading at the last movement when actual fire order is given.
- I. Officers Commanding Police parties will, on every occasion when employed in the suppression of a riot or enforcement of law, ensure that the fullest warning is, if feasible, given to the mob in a clear and distinct manner before any order is given to use tear gas or lathies or fire arms. They will use the most effectual means to explain beforehand to them that in the event of the Police party being forced to open fire, the fire will be effective and on the target. Whenever firing is resorted to, directions and warnings to the mobs should be announced through loudspeakers. Police vehicles should be equipped with loudspeakers and where such arrangements cannot be made hand megaphones should be kept ready for announcement.
- J. Even after being warned, if the mob does not disperse, the order to fire may be given. If the officer in command of the party is of the opinion that it will suffice if orders to only one or two files be given, he may accordingly order specifying the files that are to open fire. If, however, he considers that it will be insufficient, he will give the word of command to one or more sections to open fire. The fire order of each section will be given, by the regular word of command by the officer-in-charge of the party. Firing should be well controlled and officers ordering firing should always indicate the number of rounds that should be fired at any particular time.
- K. Where the situation warrants firing over the heads of the crowd and where it is considered likely to be effective in dispersing the violent

mob, such firing should be resorted to only with blank ammunition. Other policemen should be kept ready with rifles loaded with live ammunition so that if the use of blank ammunition fails, the Police would not be taken by surprise or overwhelmed. Firing with live ammunition should be directed against the most threatening part of the crowd, the aim being kept low. Firing should cease the moment it is no longer necessary.

- L. Files or sections ordered to fire shall unload immediately after firing without further word of command until the order to cease firing is made finally.
  - M. Firing should be ceased the moment the rioters show signs of dispersing and all help should immediately be rendered to tend or convey the wounded to the hospital.
  - N. An Armed Force should never be brought so close to a large and dangerous mob as to risk its being overwhelmed by numbers or being forced into action resulting in infliction of heavy casualties. Firing should be carried out from a distance sufficient to obviate the risk of being rushed on and to enable strict fire control.
- 2-A. In any situation where the Police are compelled to deal with unlawful assemblies in different places of the same Village or Town it would be necessary to secure, as far as possible, the presence of a Magistrate before resorting to the use of fire arms for dispersing any or all of such assemblies.
- B. Riot flags and display banners should be taken when Reserve Police are called out in apprehension of disturbances and before firing or any other means of dispersal is resorted to, they should be hoisted in

front of the mob in a manner so as to enable, that what is written on them is clearly visible and can be read or clearly understood by the mob.

- C. The Police used for dispersing mobs should wear the prescribed uniforms and steel helmets. The teargas section and the armed party protecting the teargas section should wear anti-gas respirators.
- D. In dealing with unarmed crowds, the Reserve Police and Civil Policemen should be used in preference to the special units like the Sikkim Armed Police/India Reserve Battalion or Central Para-Military Forces.
- D. Superintendents of Police should ensure that Sub-Divisional Officers and Station House Officers organize demonstrations, of mob dispersal by the Civil Police from time to time during their visits to the District Headquarters.

### **Right of Private defense**

- 3. In the matter of dispersal of unlawful assembly the right of private defense can be exercised to protect the life and property of public or to protect themselves. This right can be exercised by using force as much as is necessary and as long as it is necessary. This right extends even to the causing of death in certain cases as laid down in section 100 IPC as against body and in section 103 IPC as against property. The police should exercise this right cautiously. Any amount of exceeding the right may make them liable for penal action as per law. Therefore, the police officers must make a judicious use of this right, only in dire need to save the life and property, when occasion arises as shown in sections 100 and 103 IPC.

### **Enrollment and employment of Special Police Officers**

**308.** When there is apprehension that there is likelihood of disturbance of peace, riot or formation of unlawful assemblies or when such unlawful assemblies already formed for provoking breach of peace and when it is felt that the existing ordinary police is insufficient to meet the situation, special police officers can be appointed for such time and in such manner as deems necessary for the protection of life and property of the inhabitants.

1. Under Section 21 of The Sikkim Police Act 2008 the Superintendent of Police or any officer, specially empowered in this behalf by the State government, in-charge of that area may, at any time by a written order issued under the hand & seal of such officer, appoint for a period as specified in the appointment order, any able bodied and willing person between the age of 18 & 40 years, whom he considers fit, to be a special Police officer to assist the Police service. When once appointed, such special police officer shall have the same powers, privileges, and protection and be liable for all such duties and penalties and be subordinate to the authorities as the ordinary officers of police and they shall receive a certificate of appointment as such. And on appointment he shall receive a certificate and will have all the powers, privileges, duties and subordination as any other police officer and shall perform all the functions till his appointment ceases.
2. Every SDPO shall maintain a list of residents suitable with good antecedents for such duty at each place in his Sub-Division in order that he may be able at any moment to give the SP the necessary details to enable him to appoint without delay as many special Police Officers as may be necessary. The lists should be updated every year. Those persons who have been in NCC, NSS, scouts and guides and employees in the government departments and other young persons of good antecedents would be the proper persons to be included in the list. The ex-servicemen are also useful for the purpose.

3. A list of all special Police Officers thus appointed shall be displayed in the local police station. The place of muster, which need not necessarily be a police station, shall be attended at the time by an officer not lower in rank than a Sub-Inspector, who shall check the attendance of special Police Officers and allot their duties in writing specifying the hours of duty and its nature.
4. The requirement of discipline for such special police officers should be liberal and ordinarily the physical drill is not necessary. The form of compliments to seniors will not be a salute but a civilian method of greeting.
5. The periods of duty shall not be long and reliefs shall be frequent.
6. The work of special Police Officers shall be supervised and checked and absence from duty noted by specially selected special Police Officers to whose charge they are given.
7. The special Police Officers whenever necessary shall be strengthened and supported by regular police. They shall remain as separate bodies, and the duty of using any necessary force shall be performed by regular police.
8. Every special Police Officer injured while on duty, who is admitted into any government medical institution, whether in Gangtok or in the district, will be entitled to free accommodation, food and treatment as appropriate to their status and calling. If any such officer who is so injured is admitted into any PHC or government Hospital, all charges, which may be leviable from him under the rules of the institution, will be borne by the government.
9. If a motor vehicle belonging to a Special Police Officer or obtained on loan by him or any of his personal property is damaged or lost during its use by such officer on duty, the cost of such damage or the value of such vehicle, as the case may be, in so far as it is not covered by insurance or

is not met by the insuring office, will be made good by the government, provided that the claim in respect of such cost or of such value is made promptly and through the SP under whom the special Police Officer may be serving at the time, if in the districts.

10. The government will also award reasonable compensation for any injury or the loss of life to the special Police Officer, if it is directly due to his service as such.

11. The compensation awarded under this provision shall, in cases not falling under 8 above, include the charges which may be incurred in connection with the medical treatment of the special Police Officer by a private medical practitioner in any place where there is neither a government nor a Local Fund nor a Municipal Hospital. If, in a place where any such hospital exists, a private medical practitioner is employed, the charges aforesaid shall, unless the sanction of the government is obtained, be borne by the special Police Officer himself.

### **Additional Police**

(1) Subject to the general or special directions of the State Government, the Superintendent of Police of Police may, in consultation with the District Magistrate, appoint or depute additional Police Officer comprising of such ranks or grades for the purpose prescribed by the State Government for such time and on such pay as the authority prescribed in that behalf may determine.

(2) Every Additional Police Officer upon such appointment shall –

(i) receive a certificate in a form approved by the State Government in this behalf;

(ii) be vested with all or such of the powers, privileges, duties and immunities of a Police Officer as are specially mentioned in the certificate and

(iii) be subject to the orders of the Superintendent of Police.

(3) The deployment or deputation of such Additional Police Officer may be made at the request of any person requiring such police, and the cost of such deployment shall be recovered by the District Magistrate in such manner

provided in sections 421 and 422 of the Code of Criminal Procedure, 1973 for recovery of fines, or by any other law for the time being in force, or by suit in any competent Court.

### **Campus Violence**

**309.** The breaches of peace occasioned by students' violence both in and out of the campus require special attention of the police. There are many reasons and occasions when violence breaks out. These may be broadly classified as internal and external. Internal causes relate to purely problems of students relating to fees, mess facilities, curriculum, examinations, copying, ill treatment by authorities, scholarships, group rivalries, student elections, ragging, misconduct of staff members or assault by outsiders on a student, teacher etc. Some problems may be genuine, some may not be. The external causes relate to political, social or other causes in which students or groups of them involve themselves either within the campus or outside. Like all other situations, information collection is the most important duty of police and an essential requirement. The SHO by personal contacts with students and teachers should keep himself abreast of the affairs involving the groups in the colleges or Universities in his jurisdiction. The guidelines for dealing with students' violence or incidents are given below:

- A. Keep the Head of the Institution informed of visits to the campus as far as possible. Only in an emergency where a violent incident has occurred or about to take place and where it is not possible to inform, the police may rush to the spot making arrangements for information to the Head of the Institution or other responsible person of the Institution.
- B. Do not express opinion as to the right or wrong of the cause or person, but only act according to law.
- C. Conduct parlays with rival groups to avoid imminent clash if possible.

- D. Take assistance of student leaders or neutral teachers to persuade against violence.
- E. Make prompt arrest if a serious incident like grievous hurt or homicide has taken place.
- F. While proceeding to deal with an outbreak of violence, strong police force must be taken. All policemen should be doubly briefed on restraint and conduct.
- G. Use of force should be avoided as far as possible, unless there is no other way to stop further violence.
- H. While making arrests avoid doing so in the full view of the students, unless it is in the course of dealing with an unlawful assembly.
- I. Assist University/College authorities in ensuring that only genuine and legitimate inmates stay in hostels. Universities and College authorities should be prevailed by higher police officers in this regard.
- J. Collect full and accurate information regarding gangsterism, eve-teasing or assaults on teachers and act as per relevant law.
- K. Do not act on hearsay or on unverified information.
- L. Take all steps as in any other case for investigation of an offence occurring in the campus or hostels.
- M. Assist the University/College authorities for keeping order during examinations or other activities.
- N. Visit the campus during normal times so that it becomes easier to handle situations when they occur.
- O. Always remember that the students, being young and emotional are

prone to flash actions impulsive and hasty acts. Handling of situations should be done with proper understanding of the issues/situation.

- O. Where group clashes are likely there should be no hesitation to initiate action under section 107 CrPC and to obtain bonds.

### **Ragging**

**310.1** The menace of ragging in the name of introduction and familiarization of newly entrant fresh students, by senior students of the educational institutions has, off late, taken an ugly turn of serious concern. This practice of ragging is more prevalent in the medical, engineering and business management college/institutes. In a few cases, the victim students have taken the extreme step of committing suicide.

### **Duties of Police**

- 2. The police officers have to play an important and active role in curbing this social menace as specified below:
  - A. All Ss.P should instruct their subordinates before the commencement of the academic session to contact Heads of the educational institutions.
  - B. University and College hostels should be visited especially in the nights and in the beginning of the academic session along with the wardens and university/college staff. If necessary complaint box may keep in the hostels.
  - C. They should make efforts to collect intelligence or deploy men in plain clothes at the beginning of academic year besides keeping vigilance over senior students and also request the management to take preventive action besides involving the non-government organizations.
  - D. They should ensure that the management and Police take immediate action for suspension of the students and registration of cases and arrest such students to create a sense of security among new entrants.

