

ANALYSIS OF SIKKIM ANTI-DRUGS ACT, 2006 (WITH IT'S LATEST AMENDMENTS)

REGISTRATION NO. : 231

INTRODUCTION:

- ❖ Sikkim Anti-Drugs Act, 2006 (SADA) was enacted by the Government of Sikkim in the year 2006.
- ❖ Main aim of the act was to control, regulate and prevent the abuse of drugs and controlled substances in the State of Sikkim.
- ❖ To prevent illicit trafficking of such drugs and substances.
- ❖ To make strict rules to deal with the abuse of medical preparations and trade.

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- ❖ To provide for rehabilitation, education, treatment, re-integration of addicts.
 - ❖ To regulate the operations regarding trade and business of drugs and substance.
 - ❖ To create awareness among the mass regarding the abuse of drugs and its harmful implications.
 - ❖ Acute need to fulfil the limitations of Narcotic Drugs and Psychotropic Substances Act, 1985.

WHY THE NEED FOR SADA ?

- ❖ Even though the NDPS Act was applicable in the State of Sikkim there were certain reasons for the need of SADA.
- ❖ Abuse of prescription drugs sold by pharmacies/ medical stores on the prescription by a registered medical practitioner.
- ❖ Abuse of other substance which do not fall under the term “Drugs” like erazex, polish, etc.
- ❖ Need for a law which would deal with these problems specifically as per the need of the State of Sikkim.

WHAT DOES SADA CONTAIN ?

- ❖ Section 2 of the act gives out the definition of important terms such as addicts, illicit trafficking, licensed dealers etc.
- ❖ Section 3 states that the Govt has the power to take any step necessary to combat and fight drug abuse.
 - ex- coordination between departments.
 - treatment, education, rehabilitation of addicts.
 - constitute such Authorities necessary and appoint officers in that behalf.

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- ❖ Govt also has a State fund allotted for the purpose of Control of Drug abuse.
 - ❖ Govt to regulate the operations regarding trade and business of drugs and controlled substances.
 - ❖ Prohibits, controls and regulates the sale, stock, transportation.
 - ❖ dealer without valid trade license under Drugs and Cosmetics Act or Sikkim Trade License Act found dealing would be punished.
 - ❖ Possession of small quantity of controlled substance with a valid prescription is allowed.

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- ❖ Punishment for the contravention of controlled substances provided u/s 9.
 - ❖ Punishment for allowing premises, financing illicit traffic, criminal conspiracy u/s 10, 11 and 12 of the Act.
 - ❖ Provides for detoxification and rehabilitation of addicts.
 - ❖ Constitution of special courts for the purpose of speedy trial.
 - ❖ Offences under this act to be treated cognizable (arrest without warrant) and non-bailable.
 - ❖ Only the Court has the power to grant bail.

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- ❖ Certain offenders can also be released on PROBATION by the Court for medical treatment.
 - ❖ Power of the Magistrate and officer of gazetted rank to issue warrants.
 - ❖ Provides for conditions in which search of person is done.
 - ❖ Preparation of inventory of seized items.
 - ❖ u/s 37 it provides for immunity from prosecution to addicts volunteering for treatment.

SADA AND IT'S AMENDMENTS

- ❖ In the year 2008, *Section 4(1) was amended* where the Govt could now appoint any officer of the Deputy rank instead of the officer of the Joint rank as stated earlier. This decrease in the rank was done with the view to enable the officers to act swiftly and to exercise all the functions necessary to implement this act.
- ❖ In the year 2010, *Section 26 was amended* where the term “*the officer in charge of the Police Station*” was inserted to allow to draw samples for analysis purpose.

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- ❖ In the year 2011, *Section 9 was amended* where fines and terms of imprisonment were increased for both addicts and peddlers.
 - ❖ Terms such as *young, unmarried or unemployed* were omitted.
 - ❖ In the year 2017, *Section 2 was amended* with inclusion of new definitions such as
 - in addicts-* person consuming the drug with a valid prescription was excluded.
 - small quantity* and *large quantity* was differentiated with different tenure of imprisonment and fines.

Section 4 was amended where the Govt stated that the State fund was to be maintained in the Nationalized Bank and such fund will be accessible by various departments of the Govt like Health, family welfare by the concerned and authorized officers of such departments.

Section 9 was substituted where small and large quantity was differentiated with different terms of imprisonment and fines i.e. Small quantity, 2 years imprisonment and fine of Rs 20,000, if large quantity then imprisonment of 7 years and fine of Rs 50,000.

commercial quantity then more term of imprisonment i.e. 10 years and fine not less than Rs 1 lakh.

for licensed dealers violating then license was to be cancelled.

student offenders were differentiated i.e., 1st time- compulsory psychiatric evaluation, detoxification and rehabilitation for minimum 1 month.

2nd time- conviction, psychiatric evaluation, detoxification and rehabilitation for minimum 6 months.

more than twice- imprisonment for 2 years and fine Rs 50,000.

educational institutions not reporting incidence of drug abuse to be liable for imprisonment.

committee to be established on Schools to aid and advice the afflicted students.

State Govt employees who are offenders differentiated into 1st time and 2nd time offenders with medical assistance i.e. Psychiatric evaluation for rehabilitation of 1 month and 6 months respectively and imprisonment of minimum of 6 months and 2 years in each case with departmental inquiry system.

if offender is a member of the general public and has been liable for more than 2 times then not eligible for employment in Govt services and no welfare benefits to be provided. However, after 10 years from the date of commission of the last offence the offender will be eligible for employment and welfare benefits.

Section 10 and 11 Substituted where fines and terms of imprisonment have been further increased for financing and using premises to commit offence under this act.

Section 19 was substituted where it now along with the addicts included consumers and members of general public to be released on probation.

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- ❖ In the year 2018 amendment of *Section 9* was proposed where licensed dealers contravening the provision would be provided with more strict punishment and fine was also increased.

offenders as addicts to compulsorily go for psychiatric evaluation or psychological assessment followed by detoxification and rehabilitation.

if offender is Govt employee then to be assessed by the Medical Board. Board to make recommendations for further continuance of job of the offender.

ANALYSIS OF SADA AND IT'S WORKING ALONG WITH LIMITATIONS:

- ❖ Biggest failure was with the way it was implemented.
- ❖ Abusive police officers.
- ❖ Addicts and peddlers treated alike.
- ❖ Problems with re-integration into the society.
- ❖ Mocked and discarded by the members of the society.
- ❖ Past addicts are generally not hired for jobs.
- ❖ Members of general public if offender for more than 2 times then no employment and welfare benefits. They get the chance only after 10 years.

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- ❖ Problem with the pricing of the drugs. With the rise in price people have started using other substitutes.
 - ❖ Offenders generally from low income or poor section of the society.
 - ❖ Very few rehabilitation centres for the entire State.
 - ❖ *In Sushil Sharma v State of Sikkim*, Criminal Appeal No 8 of 2018. Hon'ble J Bhasker Raj Pradhan opined that although the NDPS Act was applicable in Sikkim, the state however faced other substances which do not fall within the definition of drugs. The NDPS Act, 1985 has been enacted to consolidate and amend the law relating to narcotic drugs.

section 50 and 55 of NDPS was mandatory i.e relating to condition under which search is to be conducted and police to take charge of the seized articles.

similar sections in both SADA and NDPS like Sec 22 of SADA and Sec 43 of NDPS relating to procedure for search and seizure, Report of arrest and seizure under Section 57 of NDPS Act, 1985 and Section 30 of SADA, 2006, so **Safeguards provided under the NDPS Act, 1985 must be observed strictly. (Art 254 of Constitution of India)**

❖ Earlier bail was easily granted by the Court to the offenders. This made the entire act ineffective. But, recently in 2018, *in the case of Nabin Manger vs State of Sikkim*, Bail Application No 3 of 2018, J Hon'ble Meenakshi Madan Rai opined that *it is essential that Courts deal with an iron hand with the sellers who encourage addiction.*

it was also opined that the *interest of the society ought to be treated with priority. Hence application for bail was rejected.*

SUGGESTIONS:

- ❖ The use of illegal drugs must remain as criminal offence. But the penalty must be treatment programs rather than imprisonment.
- ❖ The behaviour of the police towards the addicts should be more compassionate in nature.
- ❖ The society needs to change their perception regarding the addicts and ensure to help them get rid out of the problem.
- ❖ Bail not to be provided easily to the peddlers.
- ❖ Establishment of more rehabilitation centres in the State.

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- ❖ Awareness programmes to be conducted frequently.
 - ❖ Improvisation in the teaching methods at school at early stage.
 - ❖ Treat drug abuse as illness.
 - ❖ Conducting sports activities to keep the youth fit and mentally sound.
 - ❖ Provide for employment opportunities.
 - ❖ Provide for counselling from time to time.
 - ❖ Coordination between depts to be improved.

THANK YOU