



Guide to Lawful Protesting

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Introduction

How can the guide help you?

The **Guide to Lawful Protesting** helps you understand your **right to protest** as a citizen and empowers you with the knowledge of how to carry out **lawful protests**, steps to follow to take **necessary permissions** from the police or other relevant authorities and **your rights as a protestor**.

The Guide covers your rights in the event you are **arrested** while carrying out a protest and provides information on **legal remedies** you can avail in such circumstances. It also discusses the exceptions to your right to protest, i.e. circumstances when the police can **refuse to grant you the permissions** required to carry out any protests.

What are the laws discussed in the guide?

To discuss the relevant laws in place under which you need to acquire permissions to carry out protests, it is important to note that 'law and order' is a subject covered under the State list in the Constitution of India, 1950. This means that every State has the power to make its own laws and rules that govern law and order within the territory of their own State and hence, the rules to apply for permissions to carry out protests and public gatherings will differ from State to State. For example, the Karnataka Police Act, 1963 that deals with the maintenance of public order will govern how permissions for protests are granted in the State of Karnataka.

This guide will provide you a general overview of the kinds of permissions that need to be requested and list down authorities to approach for the same.

RIGHT TO PROTEST

What is the right to protest?

As a citizen of India, your right to protest flows from two fundamental rights guaranteed to you under **Article 19** of the Constitution of India, 1950 - **freedom of speech and expression** and the **right to assemble** in a public place without arms. However, it is important to know that this right is not an unconditional right and comes with certain limitations and requirements. This means that you can exercise your right to protest by way of a **peaceful public gathering** provided you take all **necessary permissions** from authorities and **maintain public order** while doing so.

The right to protest is coupled with your correlative fundamental duty to abide by the Constitution to:

- Promote harmony and the spirit of common brotherhood
- Safeguard public property
- Abjure violence.¹

Several cases brought before the Supreme Court over the years have reaffirmed the right to protest to be an integral part of democracy and further laid down directions to be followed by the state authorities and by the citizens to ensure this right is lawfully exercised.

¹Article 51A, Constitution of India, 1950



How to Get Permissions for Protests?

If you wish to organise a public gathering for the purposes of protesting, there are certain conditions and requirements you must fulfill.

Where to apply?

You need to get a **No Objection Certificate (NOC)** from the police station within whose jurisdiction you have planned the public gathering for the protest. Some police departments **may have a specific form** or permission that you must fill out.

If the protest is in the form of a **rally or public gatherings** which may fall within the jurisdiction of more than one police station, make the application for the NOC from the **Commissionerate office** or to the office of the **Deputy Commissioner of Police**.

What all **details** should be included in the application?

This **application for the NOC** or any **specific permissions** for the protest must have the following details:

- Your **name, address and contact number, along with details of other organisers of the protest.**
- **Reasons** for the protest
- **Duration** of the protest
- Approximate **number of people** participating
- **Place** of assembly
- **Route** of the rally (if any)
- Use of **equipment** like loudspeakers, tents, pandals, etc.

Note: Separate permissions are required for the use of loudspeakers and for erecting any temporary structures like a tent or a pandal. **Please ask the officials at the police station** where you are making such an application for any separate forms that may need to be filled for using **loudspeakers and tents**.

How do you **submit the application?**

Your application can be in a **simple letter format** with the abovementioned contents, **if the police department in your city does not have a specific form** to be filled.

- The application should be addressed to the **highest ranking officer** of that police station or Deputy Commissioner of Police (if submitting with the Commissionerate office).
- Your application must be accompanied by your **identity proof, residence proof, photograph** and any other relevant documents that the application requires.
- Carry **two copies** of the letter. **Submit one** copy with the police station/officer in charge and get the **other copy signed and/or stamped for your record**.
- While submitting the application the police officer receiving your application may ask you **additional details** on arrangements of crowd control, access to facilities of water, washrooms, etc for those gathering at the protest, details for coordination with police officials to be present at the gathering, etc. In some cases, the police may ask you and/or the other organisers to submit an **affidavit** providing these details.

Can permission for peaceful protests be refused?

Yes, police authorities can deny permissions for protests. While you have a right to protest, you must know that this is not an unconditional right. There are certain reasonable restrictions imposed by the Constitution of India, 1950 on this right under which the police can deny your request.

The police can deny your request or permission granted if your protest might affect any of the following:

- The interest of the sovereignty and integrity of India
- The security of the State
- Friendly relations with foreign States
- Public order
- Decency or morality
- In relation to contempt of court, defamation, or incitement to an offence

While considering your request for conducting a protest in a specific area, the police also have to keep in mind the interests of residents and issues of public order in that area. If the police or state authorities like a District Magistrate, refuse your request or withdraw your permission, they must provide specific reasons for the denial and precise nature of threat, risks posed by your protest/gathering and reasons for imposing prohibitory orders on an ongoing protest.

Can permission for an ongoing peaceful protest be revoked?

Yes, permissions for ongoing peaceful gatherings or protests can be revoked by imposing a prohibitory order under Section 144 of the Code of Criminal Procedure, 1973. It is often colloquially referred to as imposing a curfew in a particular area.

What is a prohibitory order and how is it enforced?

A prohibitory order is an order passed by either the District Magistrate, Sub-Divisional Magistrate or Executive Magistrate empowered by the State when immediate prevention is required and when such orders or direction would prevent or is likely to prevent:

Any obstruction, annoyance or injury to any person or a danger to human life
Health, safety, or disturbance of public tranquility
Riot or an affray



A Section 144 order is directed either to individuals or a group of persons residing in a place or the public in general when visiting a particular place. The Courts have held that the police cannot arbitrarily impose such orders. Even if the order is being imposed under reasonable restrictions as provided by law, it must provide sufficient reasons for imposing such a prohibition. Furthermore, if a Sec 144 order is imposed to prevent an ongoing protest from becoming violent, sufficient notice to those protesting to evacuate from the public place or gathering has to be provided by the police.

What happened in the Ramlila Maidan Case?

In 2011, there were mass protests in the country against the rising corruption. One of the groups protesting were Baba Ramdev and his supporters at the Ramlila Maidan in New Delhi. On the midnight of 4-5 June 2011, a prohibitory order under Sec 144 was imposed and protestors were forcibly evicted from the maidan that injured several people and left one dead. Extreme measures such as water cannons, lathi charge and tear gas shells were used to forcibly evict people who were peacefully protesting.

This matter was taken up suo moto by the Supreme Court where it upheld the right of the protesters to carry out peace dharnas, gatherings and demonstrations to voice their opinion as being an essential part of their right to free speech and expression. The Court emphasized the importance of giving sufficient reasons by the police for denying or revoking permissions of an impending or ongoing peaceful protest. It further held that if a prohibitory order under Section 144 is imposed to stop an ongoing protest, sufficient notice must be given to the protestors to evacuate and not forcibly evict them like they did at Ramlila Maidan.

In Re: Ramlila Maidan Incident v. Home Secretary and Ors

If permission is denied, can you appeal?

If your application for holding a public gathering or a rally for a protest gets denied by the Senior Inspector of the police station or the Deputy Commissioner of Police(DCP), you can make an appeal to the Additional Commissioner of Police(ACP). The time for considering the application differs from State to State. In Karnataka, the DCP can take upto 10 working days to respond to your application and the ACP can take upto 7 working days to respond to your appeal.



Things to Note During Protests

What are the key steps to be followed during every protest?

Always remember to follow the steps given below during any protest:

Carry permissions with you: Please make sure that you and all other organisers of the protests have copies of the permissions granted to you for the protests along with any other permissions for use of loudspeakers, tents, etc.

Maintain public order: As an organiser or participant of a protest, it is your fundamental duty to maintain public order and peacefully voice your opinions. Your right to exercise your fundamental right to speech and expression should not violate the rights of other citizens not participating in the protest to access public places or services.

Stay within areas designated for protests: You must also ensure that the gathering is limited to the area demarcated for protests as provided in the permissions obtained from the police. It is essential that you do not trespass into private property. If the protest is being held on a private property, prior NOC has to be taken from the owner of the private property.

Cooperate with the police: If the protest turns violent and fighting or affray breaks out, cooperate with the police authorities while they contain the situation.

In 2020, the Supreme Court delivered a judgement in the context of the Shaheen Bagh protests opposing the Citizenship (Amendment) Act, 2019. In its judgement, the Court said that while citizens have the right to peaceful protest, demonstrations which exhibit dissent should take place only in designated places.

The Court also said that public ways and public spaces cannot be permanently occupied by protesters, and the right to protest must be balanced with the right of commuters to conveniently access public roads and pathways.

¶ Amit Sahni v. Commissioner of Police and Ors. CA No. 3283 of 2020, Supreme Court of India.

What are your rights if you are arrested during protests?

During the course of a protest, if you, as an organiser or a participant, are arrested, you have the following rights:

Right to inform a family member or friend of your arrest

Right to access a lawyer. If you can't afford a lawyer, you can request the services of the District Legal Services Authority.

Right to be informed about the charges being levied against you that are recorded in the arrest memo

Right to read and examine the arrest memo before signing it. You must also be given a copy of this arrest memo.

You must be informed whether the offence you are being charged with is bailable or non bailable. If it is a bailable offence, you can pay the table bail amount and be released. If it is a non bailable offence, you must be produced before a magistrate within 24 hours of your arrest.

If you are hurt, the nature of the injuries must be recorded in the arrest memo and must be taken for treatment to a civil surgeon/government hospital.

If you are a woman, please note that your arrest can only be carried out by a woman police official. It is also important to note that women cannot be arrested between sunset and sunrise, i.e. 6 PM and 6 AM. In the exceptional circumstance when the woman has to be arrested at night, the woman police officer has to take permission in writing from the local Judicial Magistrate. To know more about the law on arrest, please read Nyaaya explainer on Arrest.



Resources

Emergency Numbers:

- Police Control Room - 100/112
- Ambulance - 102
- Fire Brigade - 101

Police Contact Numbers

- Delhi Police Contact Numbers, given [here](#)
- Mumbai Police Contact Numbers given [here](#)
- Bangalore City Police Contact Numbers given [here](#)
- Kolkata Police Contact Numbers given [here](#)

Source of Information

Legislations

- Constitution of India, 1950
- Code of Criminal Procedure, 1973

Cases

- In Re: Ramlila Maidan Incident v. Home Secretary and Ors 2012 (2) Scale 628
- Anuradha Bhasin v. Union of India (2020) SCC Online SC 25
- Mazdoor Kisan Shakti Sangathan v. Union of India and Anr. (2018) 17 SCC 324
- Amit Sahni v. Commissioner of Police and Ors. CA No. 3283 of 2020, Supreme Court of India

Further Readings

- [Can the State restrict a citizen's right to protest?](#) Arun Jaitley (Outlook India, 28 February 2012)
- [Right to Protest](#), K Sivananda Kumar (Economic and Political Weekly, Vol. 55 Issue No. 43, 24 October 2020)

Checklists

(List down top 10 points (in a chronological manner) for users to read on steps they have to take regarding the subject of the guide)

1. Check if there is a curfew or any prohibitory orders like Section 144 in the area you want to protest in
2. Apply for an No Objection Certificate (NOC) from either the local police or the Deputy Commissioner of Police(DCP) office
3. Mention the correct details in the NOC application including duration of protest, reasons for protest etc.
4. Obtain separate permission for loudspeakers and tents for the protest
5. Make arrangements for first aid, water etc. during protest
6. Ensure that the protest is peaceful and without violence

Glossary Terms

Curfew: A curfew is an order through which a government imposes conditions on citizens. For instance, asking people not to step out of their houses except to buy medicines during a pandemic.

Affray: Affray means a fight or instances of violence in a public place.

Suo Moto: Suo moto means a Court taking action on its own without any request from anyone.

Abjure: Abjure means to publicly disagree with a belief or a way of behaving.

Affidavit: A written statement that officially states that the contents of it are true. This can be used as evidence in a court of law.





