

# REVENUE POLICE IN UTTARAKHAND: HISTORY AND LAW

Dharmendra Singh Adhikari\*

## Introduction:

Uttarakhand is known for a unique police system in which civil officials of the Revenue Department have powers and functions of Police. Although regular police is established in the state, yet in some hill *pattis*, jurisdiction of the police is yet to be extended to and the revenue officials perform functions of police like arrest of offenders and investigation. With their limited resources they are doing this for about a century. In this paper, an attempt has been made to discuss the law which authorizes the revenue officials to perform police functions. Besides this, related history has also been touched in brief. To be truthful, the present paper is not a new work but has been prepared with study material of three books namely 1. '*Uttarakhand Ka Faujdari Prabandh*' written by Hon'ble Mr. Justice Prafulla C. Pant, Judge of the Hon'ble High Court of Uttarakhand at Nainital, 2. '*British Administration in Kumaon Himalayas*' written by Dr. Arun Kumar Mittal and 3, '*Bharat Ka Vidhik Itihas*' written by Sh. Surendra Madhukar. Besides this, material made available by the revenue department and guidance of seniors also helped to reduce the subject in nutshell so as make it possible for the readers to go through the same in short time.

2. As we know offences are defined and punishment there for are prescribed in Indian Penal Code, 1860 and other penal enactments such as Arms Act, 1959, Narcotic Drugs & Psychotropic Substances Act, 1985, Prevention of Corruption Act, 1988, Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 *etc.* Merely defining the offences and providing punishment is not sufficient, as at the same time procedural law is required so that the offences may be investigated, inquired into, tried and otherwise dealt with. The Code of Criminal Procedure, 1973 is such main law which provides that all the offences under the Indian Penal

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\* LL.M. Delhi University, Civil Judge, Senior Division, Roorkee, Haridwar

Code are to be investigated, inquired into, tried and otherwise dealt with as per the provisions of the Code.

3. As far as investigation and other allied duties are concerned, in the Code, they have been given to the police or more particularly to the officer in charge of police station. Police was defined and established by century old enactment known as Police Act, 1861. In the State of Uttarakhand, the Uttarakhand Police Act, 2007 has been brought into force and by which, the Act of 1861 has been repealed in context of the State. However, there is one peculiar thing in Uttarakhand. In the Hill *Pattis* of the State, certain revenue officials such as *Kanoongo*, *Lekhpal* and particularly *Patwari* have been conferred upon the powers and functions of the police officer to investigate the offences. As the Code of Criminal Procedure, 1973 which extends to this State also, provides that investigation may only be done by police officer; therefore, in the following paragraphs an attempt is being made to discuss such special laws which give power to the revenue officials to investigate and perform other connected functions.

4. Although in the hilly areas of the State, powers have uniformly been conferred upon the revenue officials to investigate offences, but the special enactments, where-under such special powers have been given are not one. The State of Uttarakhand may be classified into three regions wherein three different enactments are in force which give the revenue officials powers of police to arrest and investigate etc. These three regions are:-

- (a) Hill *Pattis* of Kumaon and Garhwal Division which once formed part of British India.
- (b) Hill *Pattis* of district Tehri and Uttarkashi.
- (c) Jaunsar-Bawar region of district Dehradun.

**5. Revenue Police in hill *Pattis* of Kumaon and Garhwal Division which once formed part of British India:-** The hill districts of Kumaon Division which once formed part of British India are Almora, Bageshwar, Champawat, Nainital and Pithoragarh. Till 1790, Kumaon was ruled by Chand dynasty. During the Chand period, the *Thokdars* and *Padhans* used to perform functions of police. In 1790 Chands were ousted by Gurkhas who ruled Kumaon through military officers. As such, during the

Gurkha period, military officers performed functions of both, army and police. Soon they invaded Garhwal and were successful in annexing a large part thereof. Finally in 1815 A.D., British ousted Gurkhas and as per the famous treaty of Saigauli, river Kali became the international border of then British India and Nepal. It is said that the then rulers of Tehri who had lost their territories to Gurkhas requested British to oust the Gurkhas from Garhwal and promised to pay *Nazrana* in return. However, after the war they could not pay the same and in lieu of the *Nazrana* promised, the British kept western part of the Garhwal which they started calling British Garhwal. It consisted of present day districts of Pauri, Chamoli and Rudraprayag. As the British Garhwal was merged with Kumaon for administrative purpose and became part of the then Kumaon Commissionery, for sake of convenience we may call the Kumaon and Garhwal which came under the British, the then British Kumaon.

6. British who came to India as traders and later became rulers, were smart enough to appreciate the then peculiar geographical, demographical and socio-economical features of hill *pattis* of British Kumaon. Therefore, when G.W.Trail, then second Commissioner of Kumaon who served as such from 1816 to 1830, wrote that no special police was required as crimes were very rare in Kumaon, it was decided that no regular police was needed except in towns like Almora, Ranikhet and Nainital *etc.*. Soon the post of *Patwari* which was common in Mughal administration and in the adjoining plain areas, was introduced in revenue administration of British Kumaon. Although Kumaon had come under the British rule, but due to its distinct geographical, demographical and socio-economical features, it remained a non-regulated area where as compared to his counterpart of the plain, Commissioner had more powers and autonomy. In non-regulated area, special rules and regulations could have been framed and under the very such special rules, regulations and administrative instructions, *Patwaris* were given powers and functions of the police officer. Besides this, the conventional posts like *Thokdars* and *Padhans* were not abolished, but they continued in the roll of the Government and were also given limited functions of police like arrest of offenders and forwarding them before a *Patwari*.

7. Thus, a special police system started functioning in British Kumaon in which the revenue officials with the help of *Thokdars* and *Padhans*

had the powers to apprehend offenders, investigate the offences and do connected functions. The System was functioning under the special rules and administrative instructions and there was no superior law to the contrary having simultaneous extension in British Kumaon. In this context, noteworthy is the point that at the same time regular police was also raised and police stations were established in towns like Almora, Ranikhet and Nainital. The first police station was established at Almora in 1837. After six years, in 1843 another police station was established at Ranikhet. Although regular police was working in towns where police stations had been established, a large part of the Commissionary was still under the revenue police.

8. After few years, in the year 1833, which is considered by many as milestone in the history of the Indian legal system, came an Act which introduced codification of laws. Before 1833 there was no provision of enactments. Regulations used to be the governing laws and all the three presidencies namely Bengal, Bombay and Madras had separate and independent powers to make regulations. By the time the Act of 1833 came into force, 675, 259 and 251 regulations had already been passed respectively in Bengal, Bombay and Madras presidencies. Accordingly, at that time India used to be called country of regulations. The Act of 1833 was enacted not only to introduce codification of the laws, but to establish one single legislative institution at the central level to enact uniform laws, as, at times regulations were contrary to each other on the same legal point. Thus, after the Act of 1833 India started to have codified laws. Indian Penal Code, 1860, Societies Registration Act, 1860, Police Act, 1861, Hindu Widow Re-marriage Act, 1856 were some of the initial enactments.

9. Till now the revenue police system was based on administrative instructions by whatever name they might have been called and there was no superior law to the contrary. However, in 1861 the Police Act was enacted and after some years the Code of Criminal Procedure, 1898 also came into force. Although, the Police Act which provides for establishment of regular police had come into force in 1861, but it was extended to the British Kumaon i.e. then Almora, Garhwal and Nainital district in the year 1892 vide Notification No.1254/VIII-228-A-81 dated 30.8.1892. Thus, it appears that after coming into force of the said two

enactments, it became necessary to give the existing revenue police system a legal basis which could confirm to the said two laws. Fortunately, in the year 1874 Scheduled Districts Act had come into force. One of the objects of this Act was to make special provisions for such parts of British India which due to their distinct geographical, demographical and socio-economic features were never brought under the general laws or for the same reason could not be. Section 6 of the Act accordingly provides that the local government within the scheduled district (districts enlisted in schedule of the Act), may appoint officers to administer civil and criminal justice and prescribe procedure to be followed.

10. Accordingly, in the year 1916, in exercise of Section 6 of the Scheduled Districts Act, 1874, rules were made for appointing police officers, regulating their procedure and prescribing the powers and duties to be exercised and performed by them in the districts of Almora, Garhwal and hill *pattis* of Nainital. The said rules are known as 'KUMAUN POLICE' and were published vide Notification No. 494/VIII/-418-16 dated 07.3.1916. In rule 1 of the said rules, various revenue officials like *Peshkars*, *Kanoongo*, Superintendent of *Patwaris* and *Patwaris* and conventional posts such as *Thokdars*, *Padhans* and village headmen under the roll of the Government were given various powers and functions of police. Further, whereas the revenue official were given wide powers of police including powers of officer in charge of the police station to register the report and investigate, powers of conventional posts which now have almost become redundant were limited only to arrest the offenders and report the matter to revenue officials. In this context, it very important to see that the opening words used in rule 1 of the rules '*In addition to the police enrolled in Act V of 1861...*' appears to give an idea that revenue police system is in addition to and not in derogation of the regular police and shall work where jurisdiction of the regular police does not extend.

11. The rules known as 'Kumaun Police' framed in exercise of powers conferred by Section 6 of the Scheduled Districts Act, 1874 in the year 1916 are still in force. They confer powers and functions of police and officer in charge of the police station to such revenue officers as are mentioned therein. Revenue officials perform police functions in such areas of present districts of Almora, Bageshwar, Champawat, Chamoli, Pithoragarh, Pauri, Rudraprayag and hill *pattis* of district Nainital where

jurisdiction of the regular police does not extend. Further, since Police Act of 1861 has been repealed and replaced by the Uttarakhand Police Act, 2007 in Uttarakhand, and the Code of Criminal Procedure, 1898 by the new Code of 1973 in the country, therefore, in the said rules of 1916 wherever the words 'Police Act, 1861' or 'Code of Criminal Procedure, 1898' occur, as per sub-section (1) of section 8 of General Clauses Act, 1897, they shall respectively be read as 'Uttarakhand Police Act, 2007' and 'Code of Criminal Procedure, 1973'.

**12. Revenue Police in Hill *Pattis* of District Tehri and Uttarkashi:-**

It is said that though, the erstwhile Princely State of Tehri had its own systems, yet it usually followed the criminal justice system as was prevalent in British India. Like neighbouring British Garhwal, in Tehri also revenue officers like *Patwaris* had police powers. After independence when this princely state merged with Union of India, since the 'Kumaun Police' rules had extension to then district Garhwal only, to continue with the revenue police system and to make uniformity in all hill *pattis* of State, a special enactment was necessary which could confer upon the revenue officials powers and functions of police. Accordingly, the Tehri Garhwal Revenue Officials (Special Powers) Act, 1956 was enacted. This Act does not itself give the revenue officers namely *Lekhpal*, *Patwari* etc. police powers, but vide section 2 which provides that the State Government may do so by issuing orders in this behalf. In exercise of such power, the State Government issued orders dated 04.3.1958 where under *Patwaris* of hill *pattis* of present districts of Tehri and Uttarkashi have been given powers and functions of officer in charge of police station to arrest and investigate. In this context, noteworthy is the point that the orders dated 04.3.1958 is very similar to the 'Kumaun Police' rules framed in 1916 under the Schedule Districts Act, 1874.

**13. Revenue Police in Jaunsar-Bawar Region of District Dehradun:-**

District Dehradun not only comprises plain region, but hill *pattis* also. The Jaunsar-Bawar parganas has the same geographical, demographical and socio-economic features as those of the other hill regions of the state. In fact, till 1958, revenue police system was working in this region which like the districts of Almora, Garhwal and Nainital was also under the British Administration. Under the Bengal Regulation XI of 1831 *Tehsildar* Chakrata was empowered with powers of police in Jaunsar-Bawar areas

of district Dehradun. It appears that soon after commencement of the Tehri Garhwal Revenue Officials (Special Powers) Act, 1956 necessity of a similar enactment was also felt for Jaunsar-Bawar area for two probable reasons. The first was that under the Bengal Regulation XI of 1831, only *Tehsildar* of Chakrata was empowered with the police powers and it might have been very difficult for him to exercise such powers in the whole of the Jaunsar-Bawar area, and the Government might have appreciated that like the other hill *pattis* of the State, other revenue officials particularly *Patwaris* should be given powers and functions of the police to arrest and investigate. Secondly, Bengal Regulation XI of 1831 was not an enactment and under the Code read with Police Act, it was possible for a police officer only to exercise powers and functions of police. Accordingly, the Jaunsar-Bawar Pargana (District Dehradun) Revenue Officials (Special Powers) Act, 1958 was passed which is very similar to the Tehri Garhwal Revenue Officials (Special Power) Act, 1956.

14. Thus, in the state of Uttarakhand, the laws which confer upon the revenue officials the powers of police to arrest and investigate are not one. There are three such laws. Whereas 'Kumaun Police' rules of 1916 made under the Scheduled Districts Act, 1874 are applicable in present districts of Almora, Bageshwar, Champawat, Chamoli, Pithoragarh, Pauri, Rudraprayag and hill *pattis* of district Nainital, the Tehri Garhwal Revenue Officials (Special Powers) Act, 1956 and the Jaunsar-Bawar Pargana (District Dehradun) Revenue Officials (Special Powers) Act, 1958 operate in the districts of Tehri and Uttarkashi, and the Jaunsar-Bawar Pargana of district Dehradun, respectively. However, there is one thing common among all the three. It being, that, for the purpose of investigation and allied matters relating to the offences, the revenue officials mentioned therein shall deemed to be a police officer so competent under the Code. Further, such powers and functions of the revenue officials are in effect in only those areas where the jurisdiction of regular police does not extend.

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