

# **10**

## **CIVIL AND CRIMINAL PROCEEDINGS : SECTIONS 18 AND 19**

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### 10.1 *Section 18: Protection of action taken in good faith.*

Following the usual legislative practice in India, section 18 give protection against the incurring of legal liability in respect of any thing which is done or "intened to be done" in good faith in pursuance of-

- (a) this act; or
- (b) rules made thereunder - see section 6,12(2) and 25; or
- (c) orders issued thereunder - or
- (d) directions issued therunder - see section 5.

This is achived by providing that no such prosscution to other legal proceeding shall lie, for anything so done or intended to be done, by the specified bodies or persons. The protection is available to the following-

- (i) the Government
- (ii) any officer or other employee of the Government;
- (iii) any authority constituted under this Act; or
- (iv) any member, officer or other employee of such authority.

As regards the authority constituted under this Act, one has to refer to section 3(3) of this Act.

The meaning and effectivensess of such protection clauses, which seek to take away a legal remedy for a bona fide but illegal act, has been the subject matter of much discussion in administrative law. However, as this is a general question governing almost recent Central Acts, it is not being discussed at this place.

### 10.2 *Section 19: Cognizance of offences: Suggestion for amandment*

Section 19, which concerns itself with criminal laibility, bars the court from taking cognizance of an offence under this Act except on a complaint made as provided by the section. Amongst those authorised to make such a complaint are any authority or officer authorised in this behalf by the Central Government. It seems desirable to provide that such authority should be in writing. It would even be perferable to incorporate such authorisation in the rules (section 25).