

Offences By and Against Public Servants under the Bharatiya Nyaya Sanhita, 2023

Public office, lawful authority and criminal liability

Scope of this note. This note collects the main provisions of the Bharatiya Nyaya Sanhita, 2023 where the status, authority, duty, custody, or lawful function of a public servant is central to the offence. The provisions are not confined to one chapter. They appear in offences against the State, offences affecting the human body, public tranquillity, offences by or relating to public servants, contempts of lawful authority, and offences against public justice.

1. Meaning and Legal Idea of a Public Servant

Section 2(28) of the BNS defines **public servant**. The expression includes, among others, commissioned officers of the Armed Forces, Judges and persons discharging adjudicatory functions, officers of courts, assessors and panchayat members assisting courts or public servants, arbitrators referred matters by courts or competent public authority, persons empowered to keep another person in confinement, officers whose duty is to prevent offences, give information of offences, bring offenders to justice, protect public health or safety, or perform public duties, and persons in the service or pay of Government, local authorities, statutory corporations or Government companies. The definition also treats a person actually occupying the position of a public servant as a public servant despite a legal defect in the title to that office.

The BNS uses the status of public servant in two ways. First, it imposes **higher responsibility** on officials because their office carries public trust. Secondly, it gives **special protection** to public servants when the offence is committed to obstruct, deter, threaten, or punish them for performing lawful duties.

| Category | Core idea | Illustrative BNS provisions |
|--------------------------------------|---|---|
| Offences by public servants | Misuse, disobedience, neglect, false record, illegal custody-related conduct, or corrupt judicial/public justice conduct by a public servant. | 156, 157, 198-203, 255-261, 264, 267 |
| Offences against public servants | Violence, obstruction, threat, disobedience, refusal of legal duty, resistance to process, or interference with public authority. | 121, 132, 189, 195, 206-226, 262, 263, 265, 267 |
| Offences relating to public servants | Pretending to be a public servant or fraudulently using official dress, token, or appearance. | 204, 205 |

2. Offences Committed By or Relating to Public Servants

The direct group of provisions is Chapter XII, titled **Of Offences By or Relating to Public Servants**. These provisions criminalise official misconduct that causes injury, violates legal directions, creates false official documents, or uses public office for private trade or purchase. Two connected provisions punish personation of public servant and fraudulent use of official dress or tokens.

| Section | Provision | Simple legal effect |
|---------|---|--|
| 198 | Public servant disobeying law with intent to cause injury | A public servant who knowingly disobeys a legal direction about how he must act in office, intending or knowing that injury is likely, commits an offence. |
| 199 | Public servant disobeying direction under law | Covers specific disobedience of legal safeguards, including improper requirement of attendance for investigation and failure to record information in certain sexual offence contexts. |
| 200 | Punishment for non-treatment of victim | Covers failure by a hospital in charge to provide required treatment to victims of specified offences. It is connected with official/public duty in medical institutions. |
| 201 | Public servant framing incorrect document with intent to cause injury | A public servant charged with preparing or translating a document or electronic record commits an offence if he knowingly makes it incorrect intending or knowing likely injury. |
| 202 | Public servant unlawfully engaging in trade | A public servant legally bound not to engage in trade commits an offence if he engages in trade. |

| Section | Provision | Simple legal effect |
|---------|--|---|
| 203 | Public servant unlawfully buying or bidding for property | A public servant legally bound not to purchase or bid for certain property commits an offence if he does so. |
| 204 | Personating a public servant | Punishes pretending to hold a particular public office and doing or attempting an act under colour of that office. |
| 205 | Wearing garb or carrying token used by public servant with fraudulent intent | Punishes wearing official-looking dress or carrying an official token with intent that it may be believed the person is a public servant. |

The distinction between sections 198 and 201 is important. Section 198 deals with **disobedience of law by a public servant**. Section 201 deals with **creation of an incorrect official document or electronic record**. Both protect citizens from injury caused through misuse of official position, but their factual fields are different.

3. Custody, Escape and Public Justice Duties of Public Servants

Several provisions outside Chapter XII impose criminal liability on public servants who abuse or neglect custody-related or public justice functions. These provisions reflect a simple principle: where the law entrusts a public servant with custody, judicial responsibility, records, reports, or apprehension of offenders, deliberate misuse or negligent failure may itself become a criminal offence.

| Section | Provision | Simple legal effect |
|---------|---|---|
| 156 | Public servant voluntarily allowing prisoner of State or war to escape | A public servant having custody of a State prisoner or prisoner of war is punished if he voluntarily allows escape. |
| 157 | Public servant negligently suffering such prisoner to escape | Negligent escape of a State prisoner or prisoner of war by the public servant in custody is separately punishable. |
| 255 | Public servant disobeying direction of law to save person from punishment or property from forfeiture | Punishes official disobedience intended or likely to save a person from legal punishment or property from forfeiture or legal charge. |
| 256 | Public servant framing incorrect record or writing to save person from punishment or property from forfeiture | Punishes knowingly incorrect records or writings made by a public servant to cause loss/injury or to shield a person/property from lawful consequences. |
| 257 | Public servant in judicial proceeding corruptly making report, order, verdict or decision contrary to law | Targets corrupt judicial or quasi-judicial misuse where a public servant knowingly acts contrary to law in an official proceeding. |
| 258 | Commitment for trial or confinement by person having authority who knows he is acting contrary to law | Punishes a person with lawful authority who knowingly commits someone for trial or confinement contrary to law. |
| 259 | Intentional omission to apprehend by public servant bound to apprehend | Covers deliberate failure to apprehend or keep in confinement a person charged with or liable to apprehension for an offence. |
| 260 | Intentional omission to apprehend person under sentence or lawfully committed | Covers deliberate omission or assistance in escape where the person is under sentence of a court or lawfully committed to custody. |
| 261 | Escape from confinement or custody negligently suffered by public servant | Covers negligent sufferance of escape from lawful custody by the public servant responsible. |
| 264 | Omission to apprehend, or sufferance of escape, by public servant in cases not otherwise provided | A residual provision for intentional or negligent omission to apprehend or sufferance of escape where other specific sections do not apply. |

Sections 259, 260, 261 and 264 should be read according to the nature of custody and the mental element. Some provisions require **intentional omission or intentional sufferance**; others punish **negligent sufferance**. This makes the degree of blame depend on whether the public servant deliberately helped or allowed the escape, or failed to exercise the care required by law.

4. Offences Against Public Servants: Violence, Force and Physical Obstruction

Where the offence is committed against a public servant because of his lawful duty, the BNS treats the matter more seriously than an ordinary private quarrel. The aggravation lies not merely in the identity of the victim but in the attack on public authority and lawful administration.

| Section | Provision | Simple legal effect |
|---------------|--|--|
| 121 | Voluntarily causing hurt or grievous hurt to deter public servant from duty | Punishes causing hurt or grievous hurt to a public servant in discharge of duty, to prevent or deter duty, or because of lawful acts done in duty. |
| 132 | Assault or criminal force to deter public servant from discharge of duty | Punishes assault or use of criminal force against a public servant executing duty, to deter duty, or because of lawful official action. |
| 195 | Assaulting or obstructing public servant while suppressing unlawful assembly, riot or affray | Specifically protects public servants engaged in dispersing unlawful assemblies or suppressing riot/affray; even threats or attempts are separately covered. |
| 221 | Obstructing public servant in discharge of public functions | General obstruction of a public servant in the discharge of public functions. |
| 224 | Threat of injury to public servant | Threatening injury to a public servant or someone in whom he is interested, to induce him to do, forbear, or delay an official act. |
| 262, 263, 265 | Resistance or obstruction to lawful apprehension / escape / rescue | Punish resistance to lawful apprehension, obstruction in apprehending another person, escape, rescue, or similar interference with lawful custody. |

The common thread is the link between the act and the public servant's lawful duty. An assault on a public servant may fall under section 132 when it is connected with the execution of duty. If bodily hurt is actually caused, section 121 may become relevant. If the public servant is acting in the specific context of dispersing an unlawful assembly or suppressing a riot or affray, section 195 provides a more specific setting.

5. Contempt of Lawful Authority of Public Servants

Chapter XIII contains many everyday offences where a citizen obstructs, disobeys, refuses assistance, avoids process, gives false information, or interferes with the authority of public servants. These provisions do not treat public servants as above the citizen; rather, they protect lawful public functions from being frustrated by deliberate non-cooperation or falsehood.

| Section | Provision | Simple legal effect |
|---------|--|---|
| 206 | Abducting to avoid service of summons or other proceeding | Punishes abducting to avoid lawful service from a public servant. |
| 207 | Preventing service or publication of summons, notice or order | Punishes preventing lawful service, affixing, or publication of process by public servant. |
| 208 | Non-attendance in obedience to order from public servant | Punishes failure to attend when legally bound by an order of a public servant. |
| 209 | Non-appearance in response to proclamation under BNSS section 84 | Punishes non-appearance after proclamation. |
| 210 | Omission to produce document or electronic record to public servant | Punishes failure to produce required document or electronic record when legally bound. |
| 211 | Omission to give notice or information to public servant | Punishes failure to give legally required notice or information. |
| 212 | Furnishing false information | Punishes furnishing false information where true information is legally required. |
| 213 | Refusing oath or affirmation when duly required | Punishes refusal to take oath or affirmation before competent public servant. |
| 214 | Refusing to answer public servant authorised to question | Punishes refusal to answer lawful questions by authorised public servant. |
| 215 | Refusing to sign statement | Punishes refusal to sign a statement when legally required. |
| 216 | False statement on oath or affirmation to public servant | Punishes false statement made on oath/affirmation before public servant or authorised person. |
| 217 | False information intending public servant to use lawful power to injure another | Punishes false information designed to make public authority act to someone's injury. |
| 218 | Resistance to taking of property by lawful authority of public servant | Punishes resistance to lawful taking of property by public authority. |
| 219 | Obstructing sale by authority of public servant | Punishes obstruction of sale of property under lawful authority. |

| Section | Provision | Simple legal effect |
|---------|---|---|
| 220 | Illegal purchase or bid in sale by authority of public servant | Punishes illegal purchase or bidding at such sale. |
| 222 | Omission to assist public servant when bound by law | Punishes intentional omission to give legally required assistance to a public servant. |
| 223 | Disobedience to order duly promulgated by public servant | Punishes disobedience of lawful public orders when harm or risk described in the section results or is likely. |
| 225 | Threat to induce person to refrain from applying for protection to public servant | Punishes threats intended to prevent a person from seeking lawful protection from a public servant. |
| 226 | Attempt to commit suicide to compel or restrain exercise of lawful power | Punishes attempt to commit suicide with intent to compel or restrain a public servant from exercising lawful power. |

These provisions are best understood as offences against **lawful authority**. The prosecution must still show the necessary legal ingredients: existence of a lawful order, legal duty, lawful authority, knowledge where required, and the relevant omission, refusal, obstruction, falsehood, threat, or disobedience.

6. Public Tranquillity and Collective Resistance to Public Authority

The BNS also recognises that public servants may be targeted not only by individuals but by groups. The law of unlawful assembly and riot therefore includes public authority as one of the protected interests.

| Section | Provision | Relevance to public servant |
|---------|--|---|
| 189 | Unlawful assembly | One object of an unlawful assembly may be to overawe by criminal force, or show of criminal force, the Central or State Government, Parliament, State Legislature, or any public servant in the exercise of lawful power. |
| 191 | Rioting | If force or violence is used by an unlawful assembly, or by any member in prosecution of the common object, the offence becomes rioting. Public servant-related obstruction may therefore aggravate the group context. |
| 195 | Assaulting or obstructing public servant while suppressing unlawful assembly, riot or affray | A specific provision protecting public servants performing crowd-control or riot-suppression duties. |

7. Judicial Proceedings and Court-related Public Servants

Public servants who sit in judicial proceedings, or discharge functions connected with justice, receive protection from intentional insult or interruption. At the same time, public servants exercising judicial authority are criminally liable if they corruptly act contrary to law in reports, orders, verdicts or decisions.

| Section | Provision | Simple legal effect |
|---------|---|--|
| 257 | Public servant in judicial proceeding corruptly making report etc. contrary to law | Liability of the public servant for corrupt misuse of judicial/public justice function. |
| 258 | Commitment for trial or confinement contrary to law | Liability of the authority-holder who knowingly commits a person for trial or confinement contrary to law. |
| 267 | Intentional insult or interruption to public servant sitting in judicial proceeding | Protects judicial proceedings from intentional insult or interruption directed at the public servant sitting in that proceeding. |

8. Practical Classification

| Legal relationship | Typical conduct | Sections |
|---|---|-------------------------|
| Public servant misuses office | Disobeys law, creates false official record, unlawfully trades or bids, corruptly makes judicial order/report, shields offender/property. | 198-203, 255-258 |
| Public servant fails custody or apprehension duty | Allows escape, negligently suffers escape, intentionally omits apprehension, fails to keep person in confinement. | 156, 157, 259-261, 264 |
| Citizen attacks public servant | Hurt, grievous hurt, assault, criminal force, threats, obstruction. | 121, 132, 195, 221, 224 |

| Legal relationship | Typical conduct | Sections |
|---|--|--------------------|
| Citizen disobeys or frustrates lawful authority | Avoids summons, refuses attendance, refuses oath, refuses answer/signature, omits information, disobeys promulgated order. | 206-216, 222, 223 |
| Citizen misleads authority | False information or false statement leading to wrongful use of lawful power. | 212, 216, 217 |
| Public servant identity is misused | Personation or fraudulent use of official garb/token. | 204, 205 |
| Court or public justice is interfered with | Resistance to apprehension, escape/rescue, insult/interruption in judicial proceeding. | 262, 263, 265, 267 |

9. Conclusion

The BNS treats public servants in a balanced manner. It does not merely protect officials; it also imposes criminal responsibility on them when they misuse lawful authority, disobey legal directions, falsify official records, unlawfully trade or bid, corruptly act in judicial proceedings, or allow persons in custody to escape. At the same time, it protects public servants from violence, threats, obstruction, false information, refusal of lawful cooperation, and interference with judicial or administrative functions.

The central idea is therefore simple: **public office is a position of trust, and lawful public authority must neither be abused by the officer nor obstructed by the citizen.** The aggravating factor is the connection with official duty, lawful authority, public justice, custody, or administration.

Sources Consulted

1. The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023, official Gazette PDF hosted by the Ministry of Home Affairs and India Code.
2. India Code arrangement of sections and statutory text of BNS chapters on public servants, lawful authority of public servants, public tranquillity, and public justice.
3. Supplementary bare-act cross-checks from BPRD/NCRB public legal materials and reputable legal bare-act databases. This document is a study article and not legal advice for any specific case.