

No.25022/08/2009-F-I
Government of India
Ministry of Home Affairs
(Foreigners Division)

NDCC-II Building, Jaisingh Road,
Near Jantar Mantar, New Delhi-110001.

Dated, the 5th November, 2012

To

1. Principal Secretaries (Home),
All State Governments and Union Territories
2. Director Generals of Police/Commissioners of Police,
All States / Union Territories

Subject: Powers to take action against foreign nationals living
illegally in India.

Sir,

I am directed to say that the matter regarding powers vested with the state Governments/UTs Administrations for arresting foreign nationals living illegally in India has been examined by the Government. In this context, the State Governments/UTs Administrations may note that the police authorities can exercise the power to arrest a foreign national living illegally in India in terms of Section 4 of the Passport (Entry into India) Act, 1920, which is reproduced below: -

“Power to Arrest - (1) Any officer of police, not below the rank of a Sub Inspector, and any officer of Customs Department empowered by a general or special order of the Central Government in this behalf may arrest without warrant any person who contravened or against whom a reasonable suspicion exists that he had contravened any rule of order made under Section 3”.

2. Further, any foreign national who remains in any area in India for a period exceeding the period for which the visa was issued to him can be proceeded against under Section 14 of the Foreigners Act, 1946. It may also be mentioned that a foreigner who enters into or stays in any area in India without the valid

documents required for such entry or for such stay, as the case may be, can also be proceeded against under Section 14A (b) of the Foreigners Act, 1946.

3. You are accordingly requested to take strict action in accordance with the position stated in paras 2 & 3 above against the foreign nationals found to be staying illegally in your State/UT viz. those who have entered into India without valid travel documents and those who are found overstaying after coming to India on valid documents. Appropriate instructions in this regard may be issued to all concerned for strict compliance.

Yours faithfully,

(P.V. Sivaraman)
Director (Foreigners)
Tel: 23438039