

THE NAGALAND BACKWARD TRIBES COMMISSION ACT, 2016

(NAGALAND ACT NO.3 OF 2017)

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Act

An Act to establish a commission for Backward Tribes in the State of Nagaland.

An Act to establish a Commission for Backward Tribes in the State of Nagaland to safeguard the rights of backward tribes of the State, with special focus on the six backward tribes (Chang, Khiamniungan, Konyak, Phom, Sangtam and Yimchungru) belonging to Longleang, Kiphire, Mon and Tuensang districts, and study and make recommendations on educational, employment Development and health aspects pertaining to them.

1. Short Title and Commencement:

- (1) This Act may be called the Nagaland for Backward Tribes Commission Act, 2016.
- (2) It shall extend to whole State of Nagaland.
- (3) It shall come into force with immediate effect.

2. Definitions: In this Ordinance, unless the context otherwise requires:

- (a) "Backward Tribe" means any of the backward tribes recognized as such by the State Government.
- (b) "Chairperson" means the Chairperson of the Nagaland Backward Tribes Commission.
- (c) "Commission" means the Nagaland Backward Tribes Commission.
- (d) "Government" means the State Government of Nagaland.
- (e) "Member" means the Member of the Commission.
- (f) "Secretary" means the Secretary of the Commission.

3. Constitution of the Commission:

- (1) The State Government shall, by notification, constitute a body to be called the Nagaland Backward Tribes Commission.
- (2) The Commission shall consist of a Chairperson and two Members, out of which one shall be a woman.
- (3) The office of the Commission shall be at Kohima.

4. Appointment of Chairperson and Members:

- (1) The Chairperson and the Member of the Commission shall be appointed by the Governor on the recommendation of a Committee consisting of-
 - (i) the Chief Secretary, who shall be the Chairperson of the Committee;
 - (ii) Chairperson of the Commission; and
 - (iii) a representative from the civil society to be nominated by the Governor.
- (2) The Chairperson and Member of the Commission shall be persons of eminence in public life with wide knowledge and experience in administration and governance and having done substantial work for promoting welfare of the backward tribes.
- (3) The Chairperson and Member of the Commission shall not be a Member of Parliament or Member of the Nagaland Legislative Assembly, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

5. Terms of Office and Conditions of Services:

- (1) The Chairperson of the Commission shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty five years, whichever is earlier and shall not be eligible for re-appointment.

- (2) The Members of the Commission shall hold office for a term of five years from the date on which they enter upon office or till they attain the age of sixty two years, whichever is earlier and shall not be eligible for re-appointment.

Provided that every Member shall, on vacating his office under this sub-section, be eligible for appointment as the Chairperson in the manner specified in sub-section (1) of Section 4.

Provided, further that where the Member is appointed as the Chairperson, his term of office shall not be more than five years in aggregate as the Member and the Chairperson.

- (3) The Chairperson and Members of the Commission, shall before they enter upon office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
- (4) The Chairperson and Members of the Commission, may, at any time, by writing under their hand addressed to the Governor, resign from their office.

Provided, that the Chairperson and members of the Commission may be removed in the manner specified under Section 8.

- (5) The Salaries and allowances payable to and other terms and conditions of service of-
- (a) the Chairperson of the Commission shall be the same as Chairman of Nagaland Public Service Commission;
- (b) the Members of the Commission shall be the same as Members of the Nagaland Public Service Commission.

Provided that if the Chairperson and Members of the Commission, at the time of their appointment are in receipt of a pension, other

than a disability or wound pension in respect of any previous service under the Government of India or under the Government of A State, their salary in respect of the service as the Chairperson and Members of the Commission shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity.

Provided further that where the Chairperson and Members of the Commission if, at the time of their appointment are, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, their salary in respect of the service as the Chairperson and Members of the Commission shall be reduced by the amount of pension equivalent to the retirement benefits.

Provided also that the salaries, allowances and other conditions of service of the Chairperson and Members of the Commission, shall not be varied to their disadvantage after their appointment.

6. Procedure for transaction of business:

- (1) The Commission shall meet regularly at its office.
- (2) All decisions will be taken in the meetings of the Commission by majority.

Provided that in case of equality of votes, the Chairperson, or in his absence the Member presiding shall have and exercise a second or casting vote.

- (3) The Commission shall observe such procedure in transaction of business in its meetings, including the quorum in such meetings, as may be prescribed by the State Government.

- (4) All orders or decisions of the Commission shall be authenticated by the Secretary of the Commission.

7. Secretary and employees of the Commission:

- (1) The State Government shall provide the Chairperson and Members of the Commission with such officers and employees as may be necessary for the efficient performance of their functions under this Act.
- (2) The State Government shall appoint an officer not below the rank of Joint Secretary to Government of Nagaland as Secretary of the Commission and shall make available to the Commission such other officers and employees as may be necessary for efficient performance of its functions.
- (3) The Secretary shall be responsible for the proper administration of the affairs of the Commission and its day to day management and shall exercise and discharge such other powers and functions as may be prescribed by the State Government.
- (4) The salary and allowances payable to, and other terms and conditions of service of the Secretary, other officers and employees, appointed for the purpose of the Commission shall be as prescribed by the State Government.

8. Removal of Chairperson and Member:

- (1) The Chairperson and Member of the Commission shall be removed from his office only by order of the Governor on the ground of proven misbehavior or incapacity after the High Court, on a reference made to it by the Governor, has on inquiry reported that the Chairperson and Member of the Commission, as the case may be, ought on such ground be removed.
- (2) The Governor may suspend from office, and if deemed necessary also prohibit from attending office during inquiry, the Chairperson and the Members of the Commission in respect of whom a reference

has been made to the High Court under sub-section (1) until the Governor has passed orders on receipt of the report of the High Court on such reference.

- (3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the Chairperson and Member of the Commission if a Chairperson and Member of the Commission, as the case may be,-
- (a) is adjudged and insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
 - (c) engages during his term of office in any paid employment outside the duties of his office, or
 - (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as it likely to affect prejudicially his functions as the Chairperson or Member of the Commission.

9. Powers and functions of the Commission:

- (1) The functions and responsibilities of the Commission shall be:
- (a) to collect data related to implementation of the reservation policy for the Backward Tribes of Nagaland in the State Services with special focus on the 6(six) backwards tribes of Kiphire, Longleng, Mon and Tuensang districts (Chang, Khamniungan, Konyak, Phom, Sangtam & Yimchungru).
 - (b) to assess if there is any short fall in filling up the vacancies reserved for the Backward Tribes and make suitable recommendations to the State Government.
 - (c) to collect data, study and make recommendations to the State Government pertaining to education, employment and health for the Backward Tribes of Nagaland.
 - (d) to inquire into specific complaints of deprivation of benefits under

the reservations quota as prescribed and safeguards provided for the Backward Tribes of Nagaland under the Act or under any other law for the time being in force, or under any order of the State Government, and make recommendations to the State Government.

- (e) to review existing policies, programs, instructions and laws having bearing on education, employment and health of Backwards Tribes and make recommendations for their effective implementation.
 - (f) to discharge such other functions in relation to the protection, welfare and advancement of the Backward Tribes of Nagaland as the Nagaland Legislative Assembly may, subject to the provisions of any law made by Nagaland Legislative Assembly, by rule specify.
- (2) In the course of discharging its functions and responsibilities, the Commission may:
- (a) Undertake studies to evaluate the planning process of education, employment and health schemes for, and its impact on, the Backward Tribes of Nagaland.
 - (b) Entrust surveys or evaluation studies to any professional body or person considered suitable and competent to undertake such work and, for these purpose, may make any reasonable payment to such body or person towards the cost of the study by way of fee or grant.
 - (c) Forward a copy of such study report to the Departments concerned, as the case may be, for their views. The comments or action taken on reports by Departments may also form part of the Annual Report of the Commission.
 - (d) Seek information from State Government on issues pertaining to education, employment and health for the Backward Tribes of Nagaland.
- (3) The Commission, while enquiring into any matter pertaining to reservation as prescribed and safeguards provided for the Backward

Tribes of Nagaland under an Act or any other law for the time being in force, shall have the powers of a Civil Court trying a suit and in particular in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of the Administrative Head of Department, Head of Department or any other Officer of the Department of the State Government and examining him under oath;
 - (b) requiring the discovery and production of any document;
 - (c) receiving evidence on affidavits;
 - (d) requisitioning any public record or copy thereof from any court or officers;
 - (e) issuing summons for the examination of witnesses and documents;
 - (f) any other matter which may be prescribed.
- (4) Where the Commission, in the course of discharge of its functions and responsibilities, is of the opinion that an officers of the State Government, has without reasonable cause, refused to provide such information or documents within the period of 30 days, or such extended period upto 15 days as the Commission has allowed, it may impose a penalty upto two hundred and fifty rupees per day till the information is furnished, provided that the total amount of such penalty shall not exceed twenty five thousand rupees.

Provided that the officer concerned shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

- (5) The general superintendence, direction and management of the affairs of the Commission shall vest in the Chairperson who shall be assisted by the Members and may exercise all such powers and do all such acts and things which may be exercised or done by the Chairperson autonomously without being subjected to directions by any other authority under this Act.

10. Reports of the Commission:

- (1) The Commission shall, as soon as practicable after the end of each year, prepare and Annual Report on the work done by it including the recommendations made to the Government and forward copies of such report to the Government.
- (2) The Annual Reports of the Commission shall be laid in the Nagaland Legislative Assembly together with a memorandum explaining, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance.

11. Rules:

- (1) The State Government may, by notification in the Official Gazette, make rules to carry out provisions of this Act.
- (2) Every rule made by the State Government under this Act shall be laid, as soon as may be after the rule is notified, before the State Legislature.

12. Applicability of rules, etc. of the State Government:

- (1) All rules, regulation and orders issued by the State Government and applicable in the Departments will also apply in the Commission.
- (2) The provisions relating to the delegation of financial powers in the Government of Nagaland shall apply to the corresponding officers in the Commission.

13. Removal of difficulty:

- (1) If any difficulty arises in giving effect to provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removal of the difficulty, provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

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