

The State Commission for the Scheduled Castes Act, 2018

(Jharkhand Act, 19, 2018)

An Act to provide for constitution of State Commission for the Scheduled Castes to provide for matters connected there with or incidental there to ;

Whereas, it is expedient to constitute a Commission for the Scheduled Castes and to provide for matters connected therewith or incidental there to;

Be it enacted by the Jharkhand State Legislature in the sixty eighth year of the Republic of India as follows:

CHAPTER-I

PRELIMINARY

1. Short title and commencement.-(I) This Act may be called the State Commission for Scheduled Castes Act, 2018.

(II) It shall come into force with effect from the date of its publication in Official Gazettee.

(III) It extends to the State of Jharkhand only.

2. Definitions.- In this Act, unless, the context otherwise requires,-

(a) "Commission" means "The State Commission for the Scheduled Castes " constituted under section 3;

(b) "Member" means a member of the Commission and includes the Chairman and the Vice Chairman of the Commission;

(c) "Scheduled Castes" shall have the meaning assigned in clause (24) of Article 366 of the Constitution of India;

CHAPTER-II

State Commission for the Scheduled Castes

3. Constitution of the Commission for the Scheduled Castes.- (1) The State Government shall, as soon as may be after the commencement of the Act constitute a body to be called as the State Commission for the Scheduled Castes to exercise the powers and perform the functions assigned to it by or under this Act with its head quarter at Ranchi.

(2) The commission shall consist of the following members, namely:-

(a) the chairman, who has special knowledge in matter relating to the Scheduled Castes, shall be nominated by the State Government;

(b) the vice Chairman, who has special knowledge in matter relating to the Scheduled Castes, shall be nominated by the State Government;

(c) three persons, who have special knowledge in matters relating to the Scheduled Castes, shall be nominated by the State Government;

4. Term of Office and Conditions of service of the Chairman, Vice Chairman and Members.- (1) Subject to the pleasure of the State Government, the Chairman, Vice Chairman and every member shall hold office for a term not exceeding three years as may be specified by the State Government.

(2) The Chairman/Vice chairman or a Member of the Commission may, at any time by writing under his hand addressed, to the State Government, resign his office.

(3) The State Government shall remove a person from the office of the Chairman or Vice Chairman or a member, if that person,-

(a) Becomes an undischarged insolvent; or

(b) Has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(c) becomes of unsound mind and stands so declared by a competent court; or

(d) refuses to act or becomes incapable of acting; or

(e) without obtaining leave of absence from the commission, absents himself/herself from three consecutive meetings of the Commission; or

(f) has in the opinion of the State Government so abused the position of Chairman or Vice Chairman or Member as to render that person's continuance in office detrimental to the interest of the Scheduled Caste:

Provided that no person shall be removed under this clause unless that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section(2) or otherwise shall be filled by fresh nomination.

(5) The fixed amount/lumpsum amount and allowances payable to and the other terms and conditions of service of the Chairman, Vice Chairman and allowance payable to the Members shall be such, as may be prescribed.

(5) Staff of the Commission.- (1) Any Officer not below the rank of Deputy Secretary nominated by the Government shall be the ex-officio Member-Secretary of the Commission.

(2) The State Government shall provide the Commission with such officers and employees as may be required for the proper functioning of the Commission.

(3) The Administrative expenses of the commission including the fixed amount/lumpsum amount and allowances payable to the Chairman/Vice Chairman or Members and salary and allowances payable to the Officers and employees of the Commission shall be paid out of the grants referred to in Section 11.

6. Vacancies etc., not to invalidate proceedings of the Commission.-No Act or proceedings of the Commission shall be invalid merely on the ground of the existence of any vacancy in the office of membership of the commission or defect in the Constitution of the Commission.

7. Procedure to be regulated by the Commission.-(1) The Commission shall meet as and when necessary, ordinarily at Ranchi and at such places as the Chairman may think fit.

(2) The Commission shall have power to regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member Secretary or any other officer of the Commission duly authorised by the Member Secretary in this behalf.

CHAPTER-III

FUNCTIONS AND POWERS OF THE COMMISSION

8. Functions of the Commission.- The functions of the commission shall be as follows,-

(a) to investigate and examine the working of various safeguards provided in the constitution of India or under any other law for the time being in force or under any order of the Government for the welfare and protection of the Scheduled Castes of Jharkhand and;

(b) to enquire into specific complaints with respect to the deprivation of rights and safeguard of the Scheduled Caste of Jharkhand and to take up such matter with the appropriate authorities;

(c) to advise on the planning process of socio-economic development of the Scheduled Castes to evaluate the progress of their development in the State.

(d) to make recommendations as to the measures that should be taken by the State for the effective implementation of safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and to make report to the State Government annually and at such other time as the Commission may deem fit.

(e) to discharge such other functions in relation to the protection, welfare, development and advancement of the Scheduled Castes as may be prescribed:

Provided that if any matter specified in this section is dealt with by the National Commission for Scheduled Castes established under Article 338 of the Constitution of India the State Commission for Scheduled Caste shall cease to have jurisdiction on such matter.

(f) The State government may issue such directions to the commission as may be considered necessary or proper for carrying out the purposes of the Act and the commission shall be bound to comply with such directions.

9. Laying of Report.- The State Government shall cause such reports referred to in clause (d) of Section 8 to be laid before the State Legislative Assembly explaining Action taken or proposed to be taken and the reasons, if any, for non-acceptance of the recommendations.

10. Powers of Commission.- The Commission shall, while inquiring into any matter under section 8, have the same powers as vested in a civil court while trying a suit under the Code of Civil Procedure 1908, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of the State and examining him on 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 office;

(e) issuing Commissions for the examination of witnesses and documents;
and

(f) any other matter which may be prescribed.

Provided that no person who is holding the office of the Chief Secretary, Principal Secretary or Secretary to the State Government or is Head of the Department employed in connection with the affairs of the State Government

shall be summoned or required to attend in person under clause (a) but he shall be deemed to have complied with the summons if he causes a person not below the rank of Deputy Secretary or, as the case may be, a person holding a post equivalent thereto to attend the Commission in compliance with the summons instead of attending in person:

Provided further that the summons issued under clause (a) shall clearly indicate the purpose for which the person concerned has been summoned and when any person is summoned to produce a document without being summoned to give evidence, he shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

CHAPTER - IV

FINANCE, ACCOUNTS AND AUDIT

11. Grants by the State Government.-(1) The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants such sums of moneys as the State Government may think fit, for being utilised for the purpose of this Act.

(2) The Commission may spend such sums out of the grants as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section(1).

12. Accounts and Audit.-(1) Accounts of income and expenditure of the Commission shall be kept in accordance with such rules, as may be prescribed.

(2) The Commission shall prepare an annual statement of accounts in such form as may be prescribed.

(3) The accounts of the Commission shall be audited annually by such auditor as the State Government may appoint.

(4) The auditor shall, for the purpose of audit, have access to all the accounts and other records of the Commission.

(5) The Commission shall pay from its grant such charges for the audit, as may be prescribed.

(6) As soon as may be after the receipt of the report of the auditor, the Commission shall send a copy of the annual statement of accounts together with a copy of the report of the auditor to the State Government and shall cause to be

published the annual statement of accounts in such manner, as may be prescribed.

(7) The State Government shall cause the report to be laid, as soon as may be after it is received, before the House of the State Legislative Assembly.

(8) The State Government may, after persual of the report of the auditor give such directions, as it thinks fit to the Commission and the Commission shall comply with such directions.

CHAPTER - V

MISCELLANEOUS

13. Chairman, Vice Chairman, Members and employees of the Commission to be public servants.- The Chairman, Vice Chairman, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860)

14. Power to make rules.-(1) The State Government may after previous publication by notification in the official Gazette make rules for the purposes of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions such rules may provide for all or any of the following matters, namely:-

(a) salary and allowances payable to, and other terms and conditions for service of the Chairman/Vice Chairman and allowances payable to Members under sub-section (5) of section 4;

(b) the form in which the annual statement of accounts shall be prepared under sub-section(2) of section 12;

(c) any other matter which is required to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before State Legislative Assembly while it is in session, for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions. If before the expiry of the session in which it is so laid or the session immediately following the aforesaid House agree in making any modification in the rule or House agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. Power to remove difficulties.- If any difficulty arises in giving effect to the 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 removing 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 Legislative Assembly.

16. Overriding effect of the Act:- Notwithstanding any thing contrary in any other law and Rules for the time being in force, any order, notification, circular, scheme, rule or resolution made or issued, the provisions of this Act shall prevail.

Provided that any other law or rule for the time being in force any order, notification, circular, scheme, resolution made issued or passed prior to this Act, so far as it is not inconsistent with this Act, shall continue to be in force and shall be deemed to have been made issued or passed in this Act.

17. Repeal and Savings

(I) All orders/Resolution/Circulars etc related to this, which are inconsistent with this Act, shall be deemed to have been repealed to that extent.

(II) Any thing done or any Action taken under any order/resolution/circular before the commencement of this Act shall be deemed to be done or taken under this Act as if it were applicable under this Act.