

See India Code vol. III

THE BHOPAL AND VINDHYA PRADESH (COURTS)
ACT, 1950

No. XLI of 1950.

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Bhopal and Vindhya Pradesh (Courts) Act, 1950



An Act to provide for the establishment of Judicial Commissioners' Courts and other courts in Bhopal and Vindhya Pradesh.

[10th May, 1950.]

BE it enacted by Parliament as follows :—

CHAPTER I

PRELIMINARY

1. Short title and extent.—(1) This Act may be called the Bhopal and Vindhya Pradesh (Courts) Act, 1950.

(2) It extends to the States of Bhopal and Vindhya Pradesh.

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

- (i) "Chief Commissioner" means the Chief Commissioner of the State;
- (ii) "Court of the Judicial Commissioner" means the Court of the Judicial Commissioner of the State and includes the Court of the Additional Judicial Commissioner, if any;
- (iii) "district court" means the court of the district judge and includes the court of an additional district judge;
- (iv) "land suit" means a suit for the establishment of title to land or for possession of land or in which any right or interest in land is claimed;
- (v) "small cause suit" means a suit of the nature cognizable by a court of small causes under the Provincial Small Cause Courts Act, 1887 (IX of 1887);
- (vi) "State" means the State of Bhopal or the State of Vindhya Pradesh, as the case may be;
- (vii) "unclassified suit" means a suit which is neither a land suit nor a small cause suit.

CHAPTER II

COURT OF THE JUDICIAL COMMISSIONER

3. Establishment of the Court of the Judicial Commissioner.—There shall be established for each of the States of Bhopal and Vindhya Pradesh a Court to be known as the Court of the Judicial Commissioner which shall consist of the Judicial Commissioner and one or more Additional Judicial Commissioners as the Central Government may think fit to appoint thereto.

4. Qualifications for appointment as Judicial Commissioners or Additional Judicial Commissioners.—A person shall not be qualified for appointment as a Judicial Commissioner or an Additional Judicial Commissioner, unless he—

(a) is qualified to be appointed as a Judge of a High Court under clause (2) of article 217 of the Constitution; or

(b) has been the Chief Justice or a Judge of the High Court of Bhopal or Vindhya Pradesh, as the case may be, or

(c) has for at least five years served as, or exercised the powers of, a district judge in the State; or

(d) has served for at least ten years as a subordinate judge in the State; or

(e) is or has acted as the Legal Remembrancer of the State; or

(f) has for at least ten years been a pleader of the High Court of Bhopal or Vindhya Pradesh, as the case may be, or before the establishment of any of those Courts of any court exercising the highest civil and criminal jurisdiction in the State.

5. Casual vacancy in the office of the Judicial Commissioner.—On the occurrence of a vacancy in the office of the Judicial Commissioner, the Additional Judicial Commissioner, if any, or, if there be more than one Additional Judicial Commissioner, the senior among them, shall, pending the appointment of the Judicial Commissioner, act as the Judicial Commissioner.

6. Rank, precedence and responsibility of Judicial Commissioner.—The Judicial Commissioner shall have rank and precedence before the Additional Judicial Commissioner and shall be responsible for the administration and generally for the distribution of business of the Court of the Judicial Commissioner.

7. Exercise of jurisdiction by Judicial Commissioner and Additional Judicial Commissioners.—Save as provided by this Act and subject to such orders as the Judicial Commissioner may make as regards the distribution of business between himself and the Additional Judicial Commissioners, the jurisdiction of the Court of the Judicial Commissioner may be exercised by the Judicial Commissioner or by any Additional Judicial Commissioner.

8. Civil and criminal jurisdiction of the court of the Judicial Commissioner.—Save as otherwise provided by this Act or any other law for the time being in force, the Court of the Judicial Commissioner shall, with reference to any civil or criminal proceeding under any law for the time being in force in the State be the highest court of appeal, revision or reference.

9. Registrar and ministerial officers.—(1) The Judicial Commissioner may appoint a Registrar and such other ministerial officers as may be necessary for the administration of justice by the Court of the Judicial Commissioner and for the exercise of powers and the performance of the duties conferred or imposed on it by this Act or any other law for the time being in force.

(2) The Judicial Commissioner may make rules for delegating to the Registrar such powers and duties of a judicial, quasi-judicial or non-judicial nature as he deems fit.

10. Registers, books and accounts and statements to be kept by Judicial Commissioner.—(1) The Court of the Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court and shall forward to the Chief Commissioner, such of those registers, books and accounts and such statements of the work done in the Court as may from time to time be required by the Chief Commissioner.

(2) The Court of the Judicial Commissioner shall also comply with such requisitions as may be made by the Central Government or the Chief Commissioner for certified copies of, or extracts from, the records of the Court of the Judicial Commissioner or any court subordinate thereto.

11. Procedure of the Court of the Judicial Commissioner.—Notwithstanding anything contained in the Code of Civil Procedure, 1908 (Act V of 1908), or the Code of Criminal Procedure, 1898 (Act V of 1898), the Court of the Judicial Commissioner may record evidence and judgments in such manner and prescribe such forms to be used in proceedings before it as it may direct by rules made by it with the sanction of the Chief Commissioner.

12. Admission and removal of advocates, vakils and pleaders.—(1) The Court of the Judicial Commissioner may, subject to such rules as it may with the sanction of the Chief Commissioner make, admit proper persons to be advocates, vakils and pleaders in any court in the State and may remove or suspend from practice on reasonable cause any person so admitted and may authorise such advocates, vakils and pleaders to plead and to act for suitors and accused persons :

Provided that advocates, vakils and pleaders who, immediately before the 25th day of January, 1950, held a *sanad* for practising in the High Court of the State shall be entitled to appear, plead and act as advocates, vakils and pleaders in the Court of the Judicial Commissioner and in all courts subordinate thereto.

(2) No person other than an advocate, vakil or pleader shall be allowed to plead and act for suitors and accused persons, except that any suitor may appear, plead or act on his own behalf or on behalf of a co-suitor if so authorised.

13. Seat of the Court of the Judicial Commissioner.—The Court of the Judicial Commissioner for Bhopal shall sit at Bhopal and the Court of the Judicial Commissioner for Vindhya Pradesh shall sit at Rewa :

Provided that either Court may sit at such other place or places as the Judicial Commissioner may, with the approval of the Chief Commissioner, from time to time, appoint.

CHAPTER III

SUBORDINATE COURTS

14. Classes of courts.—In addition to the Court of the Judicial Commissioner and the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887 (IX of 1887), and the courts established under any other law for the time being in force, there shall be the following classes of civil courts, namely :—

- (i) the court of the district judge ;
- (ii) the court of a subordinate judge ;
- (iii) the court of a munsiff :

Provided that in the case of the State of Vindhya Pradesh, courts of subordinate judges shall be established only with effect from such date as the State Government may, by notification in the Official Gazette, specify.

15. Civil districts and district judges.—(1) For the purposes of this Chapter the Chief Commissioner may, by notification in the official Gazette, divide the State into civil districts and may alter the limits or the number of such districts and may determine the headquarters of each such district.

(2) The Chief Commissioner shall, after consultation with the Judicial Commissioner, appoint as many persons as he thinks necessary to be district judges and shall post one such person to each district as district judge of that district :

Provided that the same person may, if the Chief Commissioner thinks fit, be appointed to be the district judge of two or more districts.

16. Additional district judges.—(1) When the business pending before the court of a district judge requires the aid of an additional judge or judges for its speedy disposal the Chief Commissioner may, after consultation with the Judicial Commissioner, appoint such additional district judges as may be necessary.

(2) An additional district judge so appointed shall discharge any of the functions of a district judge which the district judge may assign to him, and in the discharge of his functions he shall exercise the same powers as the district judge.

17. Munsiffs and subordinate judges.—(1) The Chief Commissioner may, after consultation with the Judicial Commissioner, fix the number of subordinate judges and munsiffs to be appointed and, if there is a vacancy in that number, may, subject to the rules, if any, made under sub-section (2), appoint such person as is nominated by the Judicial Commissioner to the vacancy.

(2) The Chief Commissioner may, after consultation with the Judicial Commissioner, make rules as to the qualifications of persons to be appointed as subordinate judges and munsiffs.

18. District court to be principal civil court of original jurisdiction.—The court of the district judge shall be the principal civil court of original jurisdiction in the district.

19. Original jurisdiction of district courts.—Save as otherwise provided by any other law for the time being in force, the court of the district judge shall have original jurisdiction in civil suits without limit as regards the value.

20. Original jurisdiction of subordinate judges and munsiffs.—The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a subordinate judge or a munsiff shall be determined by the Chief Commissioner, after consultation with the Judicial Commissioner, in such manner as he thinks fit.

21. Local limits of jurisdiction of munsiffs and subordinate judges.—(1) The local limits of the jurisdiction of a subordinate judge or a munsiff shall be such as the Chief Commissioner may, by notification in the Official Gazette, define.

(2) When the Chief Commissioner posts a subordinate judge to a district, the local limits of the district shall, in the absence of any directions to the contrary, be the local limits of his jurisdiction.

22. Powers of the Chief Commissioner to regulate the institution of particular class of suits.—Notwithstanding anything contained in sections 18, 19, 20 and 21, the Chief Commissioner may, by order published in the Official Gazette, direct that any particular class or classes of suits shall only be instituted in any particular court or courts.

23. Honorary subordinate judges or munsiffs.—(1) The Chief Commissioner may, after consultation with the Judicial Commissioner, appoint any person to be an honorary subordinate judge or an honorary munsiff and may confer on such judge or munsiff all or any of the powers conferrable under this Act on a subordinate judge or a munsiff, as the case may be, with respect to any class of suits or withdraw or suspend the exercise of any powers so conferred.

(2) Any person on whom powers are conferred under sub-section (1) shall be deemed for the purposes of this Act to be a subordinate judge or a munsiff, as the case may be.

24. Small cause jurisdiction of subordinate judge or munsiff.—The Chief Commissioner may, by notification in the Official Gazette, confer within such local limits as he thinks fit on a subordinate judge or a munsiff the jurisdiction of a judge of the Court of Small Causes under the Provincial Small Cause Courts Act, 1887 (IX of 1887), for the trial of small cause suits up to such value, not exceeding five hundred rupees in the case of a subordinate judge or one hundred rupees in the case of a munsiff as the Chief Commissioner thinks fit, and may withdraw any jurisdiction so conferred.

25. Exercise by subordinate judges of jurisdiction of district court in certain proceedings.—(1) The Judicial Commissioner may, by general or special order, authorise any subordinate judge to take cognizance of, and any district judge to transfer to a subordinate judge under his control, any proceeding or any class of proceeding, specified in such order, under—

- (a) the Indian Succession Act, 1925 (XXXIX of 1925); or
- (b) the Guardians and Wards Act, 1890 (VIII of 1890); or
- (c) the Provincial Insolvency Act, 1920 (V of 1920).

(2) The district judge may withdraw any such proceeding taken cognizance of by, or transferred to, a subordinate judge under his control, and may either dispose of it himself or transfer it to any other competent court.

(3) Proceedings taken cognizance of by, or transferred to, a subordinate judge under this section shall be disposed of by him, subject to the rules applicable to like proceedings in the court of the district judge.

26. Place of sitting of courts.—(1) The Chief Commissioner may by order fix the place or places at which any court constituted under this Chapter is to be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the court.

(3) Save as otherwise provided by an order under this section, a court constituted under this Chapter may be held at any place within the local limits of its jurisdiction.

27. Control of courts by district judges.—Subject to the general superintendence and control of the Judicial Commissioner, the district judge shall have control over all the civil courts within the local limits of his jurisdiction.

28. Ministerial officers of courts.—(1) The ministerial officers of the district court shall be appointed by the district judge.

(2) The ministerial officers of civil courts under the control of the district judge shall be appointed by the district judge.

(3) Every appointment under this section shall be subject to such rules as the Judicial Commissioner, with the approval of the Chief Commissioner, may make in this behalf.

29. Delegation of powers of district judge and district court.—The district judge may, with the previous sanction of the Judicial Commissioner, delegate to the judge of any court under his control all or any of the powers conferred on the district judge by section 27 of this Act and on a district court by section 24 of the Code of Civil Procedure, 1908 (Act V of 1908), to be exercised by such judge in any specified portion of the district, subject to the control of the district judge.

CHAPTER IV

APPELLATE AND REVISIONAL JURISDICTION IN CIVIL CASES

30. Appeals from original decrees.—Save as otherwise provided by any law for the time being in force, appeals from decrees of courts exercising original jurisdiction shall lie as follows :—

- (a) from a decree of a munsiff in any suit and of a subordinate judge in a suit the value of which does not exceed five thousand rupees, to the court of the district judge, and

(b) in all other cases, to the Court of the Judicial Commissioner :

Provided that the Judicial Commissioner, with the previous sanction of the Chief Commissioner may, by notification in the Official Gazette, direct that appeals lying to the court of the district judge from all or any of the decrees passed by a munsiff in any unclassified suit the value of which does not exceed one hundred rupees shall be preferred to such subordinate judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly, and the court of such subordinate judge shall be deemed to be the court of the district judge for the purposes of all appeals so preferred.

31. Appeals from appellate decrees.—(1) Save as otherwise provided by any law for the time being in force a second appeal shall lie to the Court of the Judicial Commissioner in any of the following cases from an appellate decree of a district court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely :—

(a) in a small cause suit or unclassified suit—

(i) if the value of the suit is one thousand rupees or upwards, or the decree involves directly some claim to, or question respecting property of like value and the decree of the district court varies or reverses, otherwise than as to costs, the decree of the court below, or

(ii) if the value of the suit is two thousand five hundred rupees or upwards, or the decree of the district court involves directly some claim to, or question respecting, property of like value ;

(b) in a land suit—

(i) if the value of the suit is two hundred and fifty rupees or upwards or the decree involves directly some claim to, or question respecting, property of like value, and the decree of the district court varies or reverses, otherwise than as to costs, the decree of the court below, or

(ii) if the value of the suit is one thousand rupees or upwards, or the decree of the district court involves directly some claim to, or question respecting, property of like value.

(2) The provisions of Order XLII of the Code of Civil Procedure, 1908 (Act V of 1908) other than rule 34 of the said Order, shall apply, so far as may be, to a second appeal under this section and to the execution of a decree passed on any such appeal.

32. Finality of appellate decree of district court.—Subject to the provisions of sections 31 and 34 an appellate decree of a district court shall be final.

33. Period of limitation.—(1) The period of limitation for a second appeal under section 31 shall be ninety days from the date of the decree appealed against.

(2) In computing such period and in all other respects not herein specified the period of limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1908 (IX of 1908).

34. Revisional powers of the Court of the Judicial Commissioner.—(1) The Court of the Judicial Commissioner may call for the record of any case which has been decided by a civil court subordinate to it and in which no appeal lies to it, and

(a) if any civil court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction with material irregularity, or

(b) if on an application made to it the Court of the Judicial Commissioner is of opinion that there is an important question of law or custom involved and that such question requires further consideration,

the Court of the Judicial Commissioner may make such order in the case as it thinks fit:

Provided that—

(i) no application under clause (b) shall be entertained after the expiration of ninety days from the date of the order in respect of which the application is made unless the applicant satisfies the Court of the Judicial Commissioner that he had sufficient cause for not making the application within that period,

(ii) no such application shall be admitted in a small cause suit under the value of one thousand rupees or in an unclassified suit under the value of two hundred rupees,

(iii) on any such application the Court of the Judicial Commissioner shall not revise the decision of the court below except in so far as such decision involves a question of law or custom in respect of which the application has been admitted, and

(iv) when any such application has been admitted, the Court of the Judicial Commissioner shall, subject to proviso (iii), treat the matter of the application as if it were an appeal.

Explanation.—A question of procedure is not a question of law or custom within the meaning of clause (b).

(2) In computing the period of limitation mentioned in proviso (i) to sub-section (1) and in all other respects not herein specified, the period of limitation of the application shall be governed by the provisions of the Indian Limitation Act, 1908 (IX of 1908).

(3) Section 115 of the Code of Civil Procedure, 1908 (Act V of 1908), shall not apply to the States of Bhopal or Vindhya Pradesh.

35. Court-fees payable on revision.—(1) The court-fees payable on applications to the Court of the Judicial Commissioner for the exercise of its jurisdiction under section 34 shall be the same as those for the time being payable on like applications to the High Court of Judicature at Nagpur.

(2) If the Court of the Judicial Commissioner, on an application in respect of which the fee payable under sub-section (1) has been paid, sets aside or modifies a decree or order of the court below or remands the case for a fresh decision, the Court of the Judicial Commissioner may grant to the applicant a certificate authorising him to receive back from the Collector of the district in which such court is situated the full amount of such fee or such part thereof as the Court of the Judicial Commissioner, having regard to the circumstances of the case, may think fit.

CHAPTER V

MISCELLANEOUS

36. Temporary vacancies in office of district judge.—In the event of the death of a district judge or of his being prevented from performing his duties by illness or other cause or of his absence from the civil district on leave, the additional district judge, if any, in the district or if there are more than one the first in rank among them or where there is no additional district judge the first in rank of the subordinate judges, if any, shall assume charge of the district court, without interruption to his ordinary duties, and while so in charge, shall perform the duties of a district judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated as the additional district judge, or the subordinate judge, as the case may be, in charge of the district and shall continue in such charge until the office of the district judge has been resumed, or assumed by an officer duly appointed thereto.

37. Delegation of powers of district judge.—Any district judge leaving the headquarters and proceeding on duty to any place within his district may delegate to an additional district judge, or where there is no such additional district judge, to a subordinate judge at the headquarters, the power of performing such duties, specified in section 36 as may be emergent, and such officer shall be designated as the additional district judge or the subordinate judge, as the case may be, in charge of the headquarters.

38. Temporary vacancy in office of subordinate judge.—In the event of the death, suspension or temporary absence of any subordinate judge or a munsiff, the district judge may empower the judge of any subordinate court or the court of a munsiff of the same civil district to perform the duties of the judge of the vacated subordinate court or the court of the munsiff as the case may be, either at the place of such court or of his own court; but in every such case the registers and records of the two courts shall be kept distinct.

39. Continuance of powers of officers.—Where any person holding an office in the service of the State Government who has been invested with any powers under this Act throughout any local area is transferred or posted to an equal or higher office of the same nature within a like local area, he shall, unless the Chief Commissioner otherwise directs, or has otherwise directed, exercise the same powers in the local area to which he is so transferred or posted.

40. Vacations.—(1) Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as closed holidays in the Court of the Judicial Commissioner and the civil courts subordinate to that Court.

(2) The list shall be published in the Official Gazette.

(3) Any judicial act done by a civil court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

41. Power to make rules.—The Court of the Judicial Commissioner may, from time to time, make rules consistent with this Act and any other law for the time being in force—

(a) for the supervision of all courts subordinate to the Court of the Judicial Commissioner and their inspection;

(b) for the translation of any papers filed in the Court of the Judicial Commissioner and the preparation of paper books for the hearing of appeals and the copying, typing or printing of any such papers or translations and the recovery from the persons at whose instance or on whose behalf papers are filed, of the expenses thereby incurred;

(c) the fees to be charged for processes issued by civil courts, or by any officer of any such court and the fee payable in any suit or proceeding in any such court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceedings;

(d) the manner in which proceedings of civil courts shall be kept and recorded, the manner in which paper books for the hearing of appeals shall be prepared and the granting of copies;

(e) all matters relating to officers of court;

(f) declaring what persons shall be permitted to act as petition writers in the courts subordinate thereto;

(g) regulating the issue of licences to such persons, the conduct of business by them and the scale of fees to be charged by them; and

(h) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.

42. Abolition of certain courts.—All civil courts, other than the Court of the Judicial Commissioner, which are in existence in the State of Vindhya Pradesh at the commencement of this Act (hereinafter referred to as “the existing civil courts”), are hereby abolished.

43. Existing rights not affected.—(1) The abolition of any existing civil court under section 42 shall not prejudicially affect the continued operation of any notice served, injunction issued, direction made or proceeding taken before the commencement of this Act by such civil court under the powers then conferred upon it.

(2) Every appeal, suit or other proceeding pending before any of the existing civil courts immediately before the commencement of this Act shall, on such commencement, stand transferred to the court exercising the jurisdiction under this Act which corresponds, so far as may be, to the jurisdiction of the court in which the proceeding was pending, and the court to which the proceeding so stands transferred shall proceed to try, hear and determine the matter as if it had been pending in that court.

(3) Every decree or order made or sentence passed by any of the existing civil courts shall be deemed for the purposes of execution to have been made or passed by the corresponding court established under this Act.

Explanation.—In this sub-section, the expression “corresponding court” means the court in which the case or proceeding in which the decree or order was made or sentence was passed would have lain, if the case or proceeding had been instituted after the commencement of this Act.

(4) Where any existing civil court has by reason of its abolition under section 42 ceased to have jurisdiction with respect to any suit or proceeding, any proceeding in relation to that suit or proceeding which if that court had not ceased to have jurisdiction might have been had therein may be had in the court to which the business of the former court has been transferred under this section.

44. Repeals and savings.—The Vindhya Pradesh (Judicial Commissioner's Court) Ordinance, 1950 (X of 1950) and the Bhopal (Courts) Ordinance, 1950 (XI of 1950) are hereby repealed :

Provided that the repeal by this Act of any of the Ordinances aforesaid shall not affect—

- (a) the previous operation thereof; or
- (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
- (c) any investigation, legal proceeding or remedy in respect of any such punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

Provided further that, subject to the provisions of the preceding proviso, anything done or any action taken, including any appointment or delegation made, notification, instruction or direction issued, or any rule, regulation or form issued or framed under any Ordinance hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.