

Andhra Pradesh Womens Commission Act, 1998

9 of 1998

[19 March 1998]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Act not to apply in certain cases
4. Application of other laws not barred
5. Constitution of the Commission
6. Term office and conditions of service of members
7. Quorum
8. Disposal of Business
9. Constitution of adhoc Committee
10. Acts of the Commission not to be invalidated by infirmity or any vacancy etc
11. Removal of members from office
12. Appointment of Director and other Staff of the Commission
13. Salaries, allowances, grants etc
14. Powers of the Commission
15. Functions of the Commission
16. Inquiry into unfair practices
17. Initiation of Prosecution
18. Annual Report to be laid before the Legislative Assembly
19. Authentication of orders, etc., of the Commission
20. Authentication of orders, etc., of the Commission
21. Government to consult the Commission
22. Members, Officers and employees of the Commission to be Public Servants
23. Protection of acts done in good faith
24. Courts not to grant injunction
25. Removal of difficulties
26. Power to make rules

Andhra Pradesh Womens Commission Act, 1998

9 of 1998

[19 March 1998]

PREAMBLE

An Act to provide for the Constitution of a Women's Commission to

improve the status of women in the State of Andhra Pradesh and to inquire into unfair practices affecting women and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for the constitution of a commission to improve the status of women in the State of Andhra Pradesh and to inquire into unfair practices affecting women and for matters connected therewith or incidental thereto;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-ninth year of the Republic of India as follows:

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh Womens Commission Act, 1998.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the Government, may by notification, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires: -

(a) "Commission" means the Commission constituted under Section 5;

(b) "Director" means the Director appointed under Section 12;

(c) "Government" means the Government of Andhra Pradesh

(d) "Member" means a Member of the Commission and includes the Chairperson;

(e) "Notification" means the notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;

(f) "Prescribed" means prescribed by rules made under this Act;

(g) "Public Servant" means any employee of the Government or a local body or any corporation owned or controlled by the Government or of any Government agency or any public undertaking;

(h) "Unfair practice" means any distinction, exclusion or restriction made on the basis of sex for the purpose of or which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women of fundamental, constitutional rights, or of human rights, or of fundamental freedom in the political, economic, social, cultural, civil or any other field or the infringement of any right or benefit conferred on women by or under the provisions of any law for the time being in force or the mental or physical torture or sexual excesses on women;

(i) "Woman" includes adolescent girl or female child.

3. Act not to apply in certain cases :-

Act not to apply in certain cases.-This Act shall not apply to .--

(i) the Central Government; or

(ii) any public sector undertaking of the Central Government, or any other institution owned, or controlled or financed directly by the Central Government.

4. Application of other laws not barred :-

Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, except to the extent the provisions of the other law are in consistent with the provisions of this Act.

5. Constitution of the Commission :-

(1) For the purpose of this Act, the Government shall, by notification, constitute a commission to be known as the Andhra Pradesh Womens Commission which shall consist of a Chairperson and not more than six other women members residing in the State to be nominated by the Government of whom one shall belong to the Scheduled Castes and one from the Scheduled Tribes and one from the Backward Classes and one from the Minorities Communities.

(2) The Chairperson shall be an eminent women committed to the cause of welfare of women with sufficient knowledge and experience in dealing with womens problems.

(3) The members of the Commission shall be women of ability, integrity and standing who have served the cause of women or have had sufficient knowledge and experience in law or legislation, administration of matters concerning the advancement of women or leadership of any trade union or voluntary organisation for women for protection, upliftment and promotion of common interests of women.

6. Term office and conditions of service of members :-

(1) Every member shall hold office for a period of five years.

(2) Notwithstanding anything contained in sub-section (1), a member may.--

(i) by writing under her hand and addressed to the Government resign her office at any time; (ii) be removed from office in accordance with the provisions of Section 11.

(3) A vacancy arising by reason of resignation or removal of any member of the Commission under sub-section (2) or otherwise shall

be filled up in accordance with the provisions contained in Section 5:

Provided that a person so appointed shall hold office for the remaining period of the term of the person in whose place such person is appointed.

(4) The members shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed:

Provided that such conditions of service shall not be varied to the disadvantage of a member after her appointment.

7. Quorum :-

The quorum for a meeting of the commission shall be four.

8. Disposal of Business :-

(1) The meeting of the Commission shall be presided over by the of Chairperson or in her absence a member Business chosen for the purpose by the members present.

(2) All questions at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting and in case of equality of votes, the Chairperson or the member presiding, as the case may be, shall have a second or casting vote.

(3) The Commission may invite, if it is considered necessary, for such purposes and on such conditions as may be prescribed, any person with expert knowledge in a particular subject to be present at the meeting to assist the Commission in arriving at a decision, but such person shall not be entitled to vote.

9. Constitution of adhoc Committee :-

(1) The Commission may for the purpose of transacting any business before it or for any special issue constitute an ad hoc Committee consisting of.--

(a) not more than two members of the Commission;

(b) not more than two experts chosen by the Commission on any particular subject.

(2) If the Chairperson is a member of the Committee, the Chairperson shall preside over the meeting of the Committee.

(3) The quorum for the meeting, the manner of disposal of business and submission of report of the Ad hoc Committee shall be in such manner and in such form as may be prescribed.

(4) The final report of the ad hoc Committee shall be placed before the Commission for its approval and on the approval thereof by the Commission it shall be deemed to be the report of the Commission.

(5) The experts in the ad hoc Committee shall be paid such remuneration as may be prescribed.

10. Acts of the Commission not to be invalidated by infirmity or any vacancy etc :-

No act or proceeding of the Commission shall be invalidated by reason only of any defect or irregularity in its constitution or on the ground of existence of any vacancy in the office of any member.

11. Removal of members from office :-

Any member of the Commission may be removed from office by an order of the Government, if she.--

(a) becomes an undischarged insolvent;

(b) is convicted and sentenced to imprisonment for an offence which involves moral turpitude;

(c) becomes of unsound mind;

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

(e) is without obtaining leave of absence from the Commission, absents from three consecutive meetings of the Commission; or

(f) in the opinion of the Government, has so abused the position of Chairperson or member as to render that person's continuance in Office is detrimental to the public interest;

Provided that a member shall not be removed under this section until that person has been given a reasonable opportunity of being heard in the matter.

12. Appointment of Director and other Staff of the Commission :-

(1) The Government may, in consultation with the Commission, appoint a woman as Director for making investigations for the purposes of this Act and to carry out such directives given to her by the Commission besides the functions conferred on her by this Act. The Government may appoint such other staff as may be necessary to assist the Commission by deputation or by direct recruitment and prescribe their conditions of service.

(2) The qualifications, term of appointment and other conditions of service of the Director shall be such as may be prescribed.

(3) In the discharge of their functions under this Act, the Director

and other staff referred to in sub-section (1) shall be subject to the administrative control of the Chairperson.

13. Salaries, allowances, grants etc :-

(1) The salaries and allowances payable to the members and the administrative expenses, including the salaries, allowances and pensions payable to, or in respect of the Director and other staff of the Commission, shall be paid out of the grants made under sub-section (2).

(2) The Government shall after due appropriation made by the Legislative Assembly by law in this behalf pay to the Commission by way of grants such sums of money as the Government may think fit for being utilised for the purpose of this Act.

(3) The Commission may spend such sums for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in subsection (2).

14. Powers of the Commission :-

(1) The Commission shall, for the purpose of any inquiry under this Act have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely.--

(a) summoning and enforcing the attendance of any witness and examining him;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public records or copy thereof from any public office;

(e) issuing commissions for the examination of witnesses.

(2) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (Central Act 45 of 1860) and the Commission shall be deemed to be a Court for the purpose of Section 195 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974).

15. Functions of the Commission :-

(1) The Commission shall perform all or any of the following functions, namely.--

(i) inquire into any unfair practice, take decision thereon and recommend to the Government the action to be taken in that matter;

(ii) cause investigations to be made by the Director on issues of importance concerning women and issues concerning unfair practice and to report thereon to the Government on the corrective measures to be taken;

(iii) submit to the Government annual reports on;--

(a) the lacunae, inadequacies, or shortcomings in the laws in force which effect the constitutional right to equality and fair treatment of women and also on the remedial legislative measures to be taken to meet the situation;

(b) the monitoring of the working of laws in force concerning women with a view to identifying the areas where the enforcement

of laws is not adequately effective or has not been streamlined and recommending executive or legislative measures to be taken;

(c) monitoring the recruitments made to State Public Services and State Public Undertakings and promotions within the said services and scrutinising the rules and regulations governing such recruitments and promotions with a view to reporting to guarantee equal opportunity to women in the matter of such recruitments and promotions;

(iv) (a) inspect or cause to be inspected, by the Director or any officer of the Commission authorised by the Commission in that behalf, prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise, or shelters for women or other places run by the Government or any of its agencies including agencies receiving aid from the Government for the purpose of offering rescue or shelter to women, or hostels intended for women or girls run by any person and such other places wherein unfair practice to women is complained of and cause further inquiries to be made about the treatment that women and girls are subjected to at such places and to report to the Government for taking remedial action;-

(b) in cases where the Commission is of the view that any public servant has been grossly negligent or grossly indifferent in regard to the discharge of his duties in relation to the protection of the interests of women, recommend to the concerned disciplinary authority to initiate disciplinary action;

(v) recommend to Government, the welfare measures to be adopted and implemented by the Government with a view to ameliorating the conditions of women;

(vi) formulate a comprehensive and affirmative scheme for securing equal opportunities to women and devise a programme for implementing such scheme which shall be forwarded to the Government for approval thereof with or without modifications, implement the same;

(vii) empower the Director to recommend to the appropriate authority to take prosecution proceedings in respect of offences committed against women under any statute providing for penalty for violation of the provisions of such statute;

(viii) maintain comprehensive Data Bank relating to the social, economic and political conditions of women including comparative study, updating the same from time to time making available such data for use in actions for vindication of the rights of women;

(ix) recommend to Government to initiate legislation for removal of discrimination in the case of inheritance, guardianship, adoption and divorce or for matters relating to the safeguarding of the dignity of women and the honour of motherhood;

(x) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

(xi) participate and advise on the planning process of socioeconomic development of women;

(xii) fund litigation involving issues affecting a large body of women;

(xiii) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

(xiv) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services inadequate support services and technologies for, reducing

drudgery and occupational health hazards and for increasing their productivity;

(xv) any other matter which may be referred to it by the Government.

(2) The Government shall cause the recommendations of the Commission under sub-section (1) to be laid before the Legislative Assembly during its next session along with a memorandum of action taken or proposed to be taken on the said recommendations and the reasons for the non-acceptance, if any, of any of such recommendations and cause action to be taken thereon by the authority concerned within two months from the date of laying such recommendations.

16. Inquiry into unfair practices :-

(1) The Commission shall inquire into any unfair practice.--

(a) on receiving a written complaint from any woman alleging that she has been subjected to any unfair practice or on a similar complaint from her mother or father or sister or brother or from any womens organisation;

(b) on its own knowledge or information;

(c) on any request from the Government.

(2) Where the complaint has been made under clause (a) of sub-section (1), the Commission may, before the issue of any process to the person complained against, cause a preliminary investigation to be made by the director in such manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be enquired into.

(3) Where the person against whom the complaint has been made, appears and shows cause or fails to appear on the day appointed for that purpose, the Commission may proceed to inquire into the matter in the complaint and take a decision thereon and if the Commission finds that there is unfair practice it shall recommend to the Government the action to be taken thereon or to initiate prosecution.

(4) The Government shall, within two months from the date of record of the recommendation of the Commission under sub-section (3) take a decision thereon and intimate the same to the Commission.

Explanation.--For the purpose of this Section, person includes a firm, company, corporation or any public undertaking, association of persons or the Government and its agencies including agencies receiving aid from the Government.

17. Initiation of Prosecution :-

(1) The Commission, after inquiry, inspection or as the case may be the investigation under the provisions of this Act, is satisfied that a person has committed any criminal offence may recommend to the State Government or the appropriate authority, as the case may be, to institute legal proceedings or prosecution in the matter and may also recommend to the State Government or the appropriate authority, to appoint a Counsel or a Special Public Prosecutor for the conduct of any such legal proceedings or prosecution; and the State Government may, having regard to the nature of the case and on being satisfied that it is necessary, in its opinion, to appoint a Counsel or Special Public Prosecutor, do so.

(2) The State Government or the appropriate authority, as the case may be, shall communicate in writing to the Commission, from time to time, the progress of any such legal proceeding or prosecution filed on the recommendation of the Commission.

(3) The State Government or the appropriate authority shall not apply for withdrawal of any such case or proceedings instituted under sub-section (1), without the prior consultation, in writing, with the Commission.

18. Annual Report to be laid before the Legislative Assembly :-

The annual report submitted to the Government by the Commission in accordance with clause (III) of sub-section (1) of Section 15 shall be laid, before the Legislative Assembly, during its next session together with a memorandum of action taken on the recommendations contained therein and the reasons for the non-acceptance, if any, of any such recommendations. 19. Sittings of the Commission.--

(1) The Commission shall hold sittings ordinarily atleast one in three months or earlier whenever required to enquire into any unfair practice.

(2) The Commission shall with the previous approval of the Government make regulations for regulating its procedure and the disposal of its business and such regulations shall, after they are made, be published in the Gazette.

(3) The Chairperson may, with the approval of the Commission, assign any function of the Chairperson or of the Commission to any other member or members of the Commission.

19. Authentication of orders, etc., of the Commission :-

All orders and decisions of and all other proceedings or instruments, if any, issued by the Commission shall be authenticated by the signature of the Director or of such other Officer as may be authorised by the Commission in this behalf.

20. Authentication of orders, etc., of the Commission :-

All orders and decisions of and all other proceedings or instruments,

if any, issued by the Commission shall be authenticated by the signature of the Director or of such other Officer as may be authorised by the Commission in this behalf.

21. Government to consult the Commission :-

The Government shall consult the Commission on all major policy matters relating to women.

22. Members, Officers and employees of the Commission to be Public Servants :-

All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Section 21 of the Indian Penal Code.

23. Protection of acts done in good faith :-

No suit, prosecution or other legal proceedings shall lie against any member of the Commission or any officer of the Commission for anything which is in good faith done or intended to be done under this Act (Central Act 45, of 1860) or the rules made thereunder,

24. Courts not to grant injunction :-

xxx xxx xxx

25. Removal of difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act the Government may, by order, do anything not inconsistent with such provisions to remove such difficulty,

(2) No order under sub-section (1), shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly.

26. Power to make rules :-

(1) The Government may, by notification make rules for the purpose of carrying out all or any of the provisions of this Act.

(2) In particular (sic) and without prejudice to the generality of the foregoing power, such rules may provide for.--

(a) the salary, allowance and other conditions of service of the members, the Director and other staff of the Commission;

(b) procedure for removal of the members of the Commission under Section 11;

(c) procedure for inquiries under Section 16 of the Act;

(d) investigations by the Director;

(e) procedure for inspection of prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners, or otherwise or shelters for women or other places run by the Government or any of its agencies including agencies receiving aid from the Government for the purpose of offering rescue or shelter to women or hostels intended for women or girls run by any person and such other places wherein unfair practice to women or girls is complained of or for holding of enquiries about the treatment that women or girls are subjected to at such places;

(f) maintaining a Data Bank;

(g) the formulation of comprehensive and affirmative scheme for securing equal opportunity to women and for the improvement and uplift of women and programme for its implementation;

(h) procedure for recommending prosecution in respect of offences committed against women under any statute;

(i) any other matter which has to be, or may be prescribed.

(3) Every rule made under this Act shall immediately after it is made be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.