

Chhattisgarh Municipal Revenue (Establishment Of Regulatory Commission) Act, 2011

15 of 2011

[11 May 2011]

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Chhattisgarh Municipal Revenue (Establishment Of Regulatory Commission) Act, 2011

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An Act to establish a regulatory commission to safeguard the interest of citizens and to rationalize and regulate user charges and other municipal revenue collections by urban local bodies, and for matters connected therewith or incidental thereto. Be it enacted by the Chhattisgarh Legislature in the Sixty-second year of the Republic of India as follows: -- * Published in the Chhattisgarh Rajpatra (Asadharan) dated 11-5-2011 Pages 346(10-18).

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Chhattisgarh Municipal Revenue (Establishment of Regulatory Commission) Act, 2011.
- (2) It shall extend to the whole State of Chhattisgarh.
- (3) It shall come into force from such date as the Government may, by notification, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,--

- (a) "Commission" means the Chhattisgarh Municipal Revenue Regulatory Commission constituted under Section 3;
- (b) "Fund" means the Fund of the Commission created under Section 22;
- (c) "Government" means the Government of Chhattisgarh;
- (d) "Member" means Chairman or Member appointed in the Commission constituted under Section 3 of the Act.
- (e) "Municipal Revenue" means any revenue under any head of

user charges or other revenue account of any urban local body, whether recovered or not recovered, realized or outstanding, levied or not levied, and includes taxes, fees, levies tolls, royalties, charges, rents, fines, penalties including interest and penal interest on revenue amounts not paid or paid late.

(f) "Urban Local Body" refers to the municipal body formed in terms of the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) or the Chhattisgarh Municipalities Act, 1961 (No. 37 of 1961) as the case may be, and includes Municipal Corporations, Municipal Councils and Nagar Panchayats in the State of Chhattisgarh.

CHAPTER 2 CHHATTISGARH MUNICIPAL REVENUE REGULATORY COMMISSION

3. Constitution Of The Chhattisgarh Municipal Revenue Regulatory Commission :-

(1) The Government shall, within six months after this Act becomes law, by notification, constitute for the purposes of this Act, a Commission to be known as "Chhattisgarh Municipal Revenue Regulatory Commission".

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire hold and dispose of property, both moveable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The Head Office of the Commission shall be at such place as the Government may by notification specify.

(4) The Commission shall consist of not more than three Members, including the Chairperson.

(5) The Chairperson and Members of the Commission shall be appointed by the Government on the recommendation of a Selection Committee referred to in Section 5.

4. Qualifications For Appointment Of Chairperson And Members Of The Commission :-

(1) Chairman and Members of the Commission shall be such serving or retired officers who shall be of the rank not below Secretary to the State Government and who shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to urban development.

(2) Notwithstanding anything contained in sub-section (1) the

Government may appoint any serving or retired person not below the rank of a District Judge belonging to Higher Judicial Service as Chairperson or Member:

Provided that if the judge identified for appointment is in service, the appointment under this sub-section shall be made only after consultation with the Chief Justice of Chhattisgarh High Court and not otherwise.

(3) For a person to be appointed as Chairman or Member of the Commission he/she should not be above the age of sixty years as on the date of appointment.

(4) The Chairperson or any other Member of the Commission shall not hold any other office.

(5) The Chairperson shall be the Chief Executive of the Commission.

5. Constitution Of The Selection Committee To Select Members Of The Commission :-

The Government shall, for the purposes of selecting the members of the Commission, constitute a Selection Committee consisting of--

(a) A person who has been a Judge of the High Court -- Chairperson

(b) The Chief Secretary of the State --Member

(c) Principal Secretary/Secretary Department of Urban Development --Member Secretary

(2) The Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member, make a reference to the Selection Committee for filling up the vacancy.

(3) The Selection Committee shall finalize the selection of the Chairperson and the Members within three months from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of three names for every vacancy referred to it.

(5) Before recommending any person for appointment as Chairperson or other Member of the Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Members, as the case may be.

(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

CHAPTER 3 FUNCTIONS OF THE COMMISSION

6. Functions Of The Commission :-

(1) The Commission shall discharge the following functions, namely: --

(a) Determine and regulate the tariff for various municipal public services like water-supply, sanitation, maintenance of roads and services, issue of various kinds of certificates and/or licenses and/or permits, and operation and maintenance of services like slaughter-houses, kanji houses and all other facilities and services that are entrusted to the urban local bodies under Schedule 12 of the Constitution and/or the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) and/or the Chhattisgarh Municipalities Act, 1961 (No. 37 of 1961).

Explanation.--The Commission may determine the above tariff separately for separate classes of the ULBs (Urban Local Bodies), and/or separately for ULBs on the basis of location and other factors that influence costs of facilities and services.

(b) Regulate the concession granted by the urban local body in respect of any tariffs, levies, taxes, tolls, rents, duties, fines, penalties and any other receipts.

(c) Specify and/or enforce standards with respect to quality, continuity and reliability of service (s) rendered to the public by the urban local bodies.

(d) Regulate the quantum of fines and penalties imposed by the urban local bodies.

(e) Determine and regulate the tolls and taxes levied by the urban local bodies.

(f) Facilitate the regime of efficient, transparent, accountable, responsible, financially self-sustainable local self-governance.

(g) Facilitate the regime of e-governance.

(h) Facilitate enforcement of citizens duties and responsibilities.

(i) Adjudicate upon disputes relating to and arising out of tariffs, levies, taxes, tolls, rents, duties, fines, penalties, services and facilities involving urban local bodies.

(j) Levy fee for the purposes of this Act.

(k) Discharge such other functions as may belong to it or be assigned to it under this Act.

(2) The Commission shall review and suitably revise the rates relating to all tariffs, levies, taxes, tolls, rents, duties, fines, penalties and any other receipts at least once in two years:

Provided, however, that the rates relating to any tariffs, levies, taxes, tolls, rents duties, fines, penalties and any other receipts

shall not be reviewed and revised more than once in any financial year.

(3) The Commission shall advise the Government on all or any of the following matters, namely:--

(a) Devolution of powers to urban local bodies to promote local self-governance in accordance with the letter and spirit of the Constitutional and legal provisions.

(b) Capacity-building of urban local bodies.

(c) Promotion of transparency and good governance practices in urban local bodies.

(d) Strengthening the financial base of the urban local bodies.

(4) The Commission shall ensure transparency while exercising its powers and discharging its functions.

(5) In discharging its functions the Commission shall be guided by the national policies, and all relevant laws.

7. Advisory Committee :-

(1) The Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of one representative from each of the following nine interest-groups --(i) Commerce (ii) Industry (iii) Transport (iv) Builders (v) Senior Citizens (vi) Women (vii) Non-Governmental Organization involved in urban development (viii) Educational and Research Institutions involved in Urban Development (ix) Advertisement Agencies.

(3) The Chairperson of the Commission shall be the ex-officio Chairperson of the State Advisory Committee and the Members of the Commission and the Secretary, or his representative not below the rank of Deputy Secretary, to the Government in charge of the departments of housing, environment, urban, development and administration shall be the ex-officio members of the Committee.

8. Objects Of The Advisory Committee :-

The objects of the Advisory Committee shall be to advise the Commission on --

(a) Major questions of policy.

(b) Matters relating to quality, continuity, and extent of service provided by the urban local bodies and/or their licensees.

(c) Compliance by licensees with the conditions and requirements of their licence.

(d) Protection of citizens interest.

(e) Improvement of quality standards in delivery of services by the urban local bodies.

9. Term Of Office And Conditions Of Service Of Members :-

(1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Chairperson or other Members in the Commission shall not be eligible for re-appointment in the same capacity.

(2) The salary, allowances and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the Government:

Provided that the salary, allowances and other terms and conditions of service of the Members shall not be varied to their disadvantage after appointment.

(3) Every Member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1); a member may --

(a) Relinquish his office by giving in writing to the Government a notice of not less than three months.

(b) Be removed from his office in accordance with the provisions of Section 10.

(5) A Member on ceasing to be a Member in terms of sub-section (4) shall not represent before the Commission the case of any person in any manner.

10. Removal Of Members :-

(1) No Member shall be removed from office except in accordance with the provisions of this section.

(2) The Government may by order remove from office any member, if he--

(a) Has been adjudged as insolvent.

(b) Has been convicted of an offence which in the opinion of the Government involves moral turpitude.

(c) Has become physically or mentally incapable of acting as a Member.

(d) Has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member.

(e) Has so abused his position as to render his continuance in office

prejudicial to the public interest;

(f) Has been guilty of proved misbehaviour:

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (c) and (f) unless an inquiry is conducted with such procedure as may be prescribed by the Government and the inquiry authority reports that the Member ought on such ground or grounds to be removed.

(3) The Government may, in consultation with the Chairperson of the inquiry authority, suspend any Member of the Commission in respect of whom a reference has been made to the Chairperson of the inquiry authority under sub-section (2) until the Government has passed orders on receipt of the report of the Chairperson of the Inquiry Authority on such reference.

CHAPTER 4 PROCEEDINGS AND POWERS OF THE COMMISSION

11. Secretary, Officers And Other Employees Of The Commission :-

(1) The Commission may appoint a Secretary to exercise such powers and perform such duties as may be specified.

(2) The Commission may, with the approval of the Government, specify the numbers, nature and categories of other officers and employees.

(3) The salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees shall be such as may be specified with the approval of the Commission.

(4) The Commission may appoint consultants required to assist the Commission in the discharge of its functions on the terms and conditions as may be specified.

12. Proceedings Of The Commission :-

(1) The Commission shall meet at the head office or such other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.

(2) The Chairperson, or if he is unable to attend the meeting of the Commission, any other Member nominated by the Chairperson in this behalf and in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from

amongst themselves, shall preside over the meeting.

(3) All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the Members present and voting, and in the event of equality of votes, the Chairperson or in his absence the person presiding shall have a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member shall have one vote.

(5) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Chairperson in this behalf.

13. Vacancies Etc., Not To Invalidate Proceedings :-

No act or proceeding of the Commission shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

14. Powers Of The Commission :-

(1) The Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (No. 5 of 1908) in respect of the following matters, namely: --

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Discovery and production of any document or other material object producible as evidence;
- (c) Receiving evidence on affidavits;
- (d) Requisitioning of any public record;
- (e) Issuing commission for the examination of witnesses;
- (f) Reviewing its decisions, directions and orders;
- (g) Any other matter which may be prescribed.

(2) The Commission shall have the powers to pass such interim order in any proceedings, hearing or matter before the Commission as it may consider appropriate.

(3) The Commission may authorize any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

15. Review And Appeal :-

(1) Any person aggrieved by any order of the Commission may,

within forty-five days of such order file an application seeking review.

(2) An appeal against any order passed in respect of a review application may be filed before the High Court within ninety days of the order.

16. Procedure Of The Commission :-

For adjudicating under this Act, the Commission shall not be bound by the Civil Procedure Code, but instead may determine its own procedure which shall include provisions and rules regarding jurisdiction and evidence which procedure shall be based on the principles of jurisprudence, transparency, consistency, and fast, just and inexpensive justice.

17. Proceedings Before The Commission :-

All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a Civil Court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

18. Powers Of Entry And Seizure :-

The Commission or any officer, not below the rank of a Gazetted Officer, specially authorized in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of Section 100 of the Code of Criminal Procedure. 1973 (2 of 1974), in so far as it may be applicable.

19. Delegation :-

The Commission may, by general or special order in writing, delegate to any Member, Secretary, officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers to adjudicate disputes under section 14 and the powers to make regulations under Section 6 as it may deem necessary.

20. Power To Frame Rules :-

- (1) The Commission shall have the power to frame rules for achieving the purposes of this Act.
- (2) Rules framed under sub-section (1) shall be published in the Government Gazette.
- (3) Rules framed according to sub-section (2) shall be placed before the State Legislature at the earliest opportunity.

CHAPTER 5 GRANTS, FUND, ACCOUNTS, AUDIT AND REPORT

21. Grants And Loans By Government :-

The Government may, after due appropriation made by the State Legislature in this behalf, make to the Commission grants and loans of such sum of money as that Government may consider necessary.

22. Establishment Of Fund By Government :-

- (1) There shall be constituted a Fund to be called the State Municipal Revenue Regulatory Commission Fund and there shall be credited thereto--
 - (a) Any grants and loans made to the Commission by the Government under Section 21.
 - (b) All fees received by the Commission under this Act.
 - (c) All sums received by the Commission from such other sources as may be decided upon by the Government.
- (2) The Fund shall be applied for meeting--
 - (a) The salary, allowances and other remuneration of Chairperson, Members, Secretary, officers and other employees of the Commission.
 - (b) The expenses of the Commission in discharge of its functions under Section 6.
 - (c) The expenses on objects and for purposes authorized by this Act.

23. Accounts And Audit Of The Commission :-

- (1) The Commission shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed by the Government in consultation with the Auditor General of Chhattisgarh.
- (2) The accounts of the Commission shall be audited by the Auditor General of Chhattisgarh at such intervals as may be specified by

him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Auditor General of Chhattisgarh.

(3) The Auditor General of Chhattisgarh and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Auditor General of Chhattisgarh generally has in connection with the audit of government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Auditor General of Chhattisgarh or any other person appointed by him on his behalf, together with the audit report thereon shall be forwarded annually to the Government and the Government shall cause the same to be laid, as soon as it may be after it is received, before the State Legislature.

24. Annual Report Of The Commission :-

(1) The Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as it may be after it is received, before the State Legislature.

CHAPTER 6 MISCELLANEOUS

25. Budget Of The Commission :-

The Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing its estimated receipts and expenditure and forward the same to the Government.

26. Directions By The Government :-

(1) In the discharge of its functions, the Commission shall be guided by such directions in matters of policy involving public interest as the Government may give to it in writing.

(2) If any question arises as to whether any such direction relates

to a matter of policy involving public interest, the decision of the Government thereon shall be final.

27. Act To Have Overriding Effect :-

In respect of matters falling under this Act, the provisions contained herein shall have over-riding effect over any provision contained in any other Act, Rules or Order.