

Gujarat State Commission for Women Act, 2002

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Gujarat State Commission for Women Act, 2002

An Act to provide for the constitution of a State level Commission for women and for the matters connected therewith or incidental thereto. It is hereby enacted in the Fifty-third Year of the Republic of India as follows :

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat State Commission for Women Act, 2002 .

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 29th December, 2001. Vedic era was golden era so far as the equality of status and personal freedom of women are concerned, but gradually the status and position of women has deteriorated. The framers of the Constitution had realised the unequal social position of the women and assured to improve the status and dignity of women in the society. The State Government attaches great importance to the protection and advancement of women in all walks of life, fields of societies and to the upliftment of status and dignity of women in general in the society. The revolution towards gender equality must be propelled by a concrete strategy for accelerating programmes. Unequal status of women, ill-treatment and derogatory practices against the women and violation of the Constitutional provisions and other women welfare legislations make bare necessity to set up an independent statutory agency to carry out surveillance functions and to facilitate effective redressal of grievances of women. With a view to making regular surveillance on such violation of rights of women, the Government of India has set up a Commission for women at a national level. On the same lines, it was considered necessary to set up State Level Commission for women for check on deprivation of such rights and having powers to recommend legislative amendments in women welfare legislations and judicial actions for redressal of grievances of women against deprivation of their rights and to take up such issues with the State Government or appropriate authority for effective remedial measures, it was also considered necessary that such body shall adequately be supported by the Government machinery. Section 3 of the said Ordinance provides that the Commission shall consist of six ex-officio members. In the Bill, it is

proposed to have five ex-officio members instead of six ex-officio members to the Commission.

As the Gujarat Legislative Assembly was not in session, the Gujarat State Commission for Women Ordinance, 2001 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature. The following notes on clauses explain the important provisions of the Bill:

Clause 2. This clause defines certain terms used in the Bill.

Clause 3. This clause provides for constitution of the Gujarat State Commission for Women.

Clause 4. This clause provides for the term of office and the conditions of service of Chairperson and members of the Commission.

Clause 5. This clause provides for the manner to be adopted for resignation by the Chairperson and member.

Clause 6. This clause empowers the State Government to remove the Chairperson and member of the Commission.

Clause 7. This clause provides for disqualification incurred by a person for being nominated as or for being a Chairperson or a non-official member.

Clause 8. This clause provides for occurrence of vacancy of Chairperson or member and filling up of such vacancies.

Clause 9. This clause provides for the appointment, salary and allowances payable to and terms and conditions of service of officers and employees of the Commission.

Clause 10. This clause provides that salary and allowances payable to the Chairperson, members, officers and other employees shall be paid out of the grants made to the Commission.

Clause 12. This clause provides for the Constitution of ad hoc committee by the Commission for the purpose of transaction of any business before it or for any special issue thereof.

Clause 14. This clause provides for the functions to be performed by the Commission.

Clause 15. This clause provides for the powers of the Commission for holding inquiry under this Act.

Clause 16. This clause provides for consultation by the State Government with the Commission on major policy matter affecting women.

Clause 17. This clause provides for us\\|al indemnity for acts done in good faith.

Clause 18. This clause provides for payment of grants to the Commission by the State Government, acceptance of funds by the Commission and expenditure to be incurred out of the grants by the Commission.

Clause 19. This clause provides for preparation of programme of work and annual statement of accounts by the Commission.

Clause 20. This clause provides for maintenance of accounts and other records and audit thereof.

Clause 21. This clause empowers the State Government to make order for the concurrent and special audit of accounts to be presented by the Commission to the State Government.

Clauses 22 and 23. These clauses provide for preparation of an annual report of the Commission and laying the same before the State Legislature.

Clause 25. This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for matters specified in sub-clause (2).

Clause 27. This clause empowers the State Government to give directions to the Commission for carrying out execution of provisions of the Act.]

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "Commission" means the Gujarat State Commission for Women constituted under Section 3 ;

(b) "member" means a member of the Commission and includes the Chairperson and the member-secretary;

(c) "prescribed" means prescribed by rules;

(d) "women" includes female-child and adolescent girl.

3. Constitution of Commission :-

(1) The State Government shall, by notification in the Official Gazette, constitute a body to be known as "the Gujarat State Commission for Women".

(2) The Commission shall consist of,

(a) a Chairperson, who shall be an eminent woman committed to the causes of women, to be nominated by the State Government;

(b) five members to be nominated by the State Government from amongst persons of ability, integrity and standing, who have served the cause of women and who have had sufficient knowledge and experience in law or legislation, sociology, advancement of women nutrition, trade unionism, management of an industry or organisation committed to increase the employment potential of women, women's voluntary organisations (including women activists), administration, economic-development, health, education or social welfare:

Provided that one member shall be from amongst persons belonging to the Scheduled Castes or Scheduled Tribes : Provided further that one member shall be from amongst the advocates;

(c) following ex-officio members

(i) Director General of Police, Gujarat State,

(ii) Secretary to Government, Women and Child Development Department,

(iii) Secretary to Government, Finance Department,

(iv) Secretary to Government, Legal Department,

(v) Secretary to Government (Family Welfare), Health and Family Welfare Department,

(d) one Member-secretary to be nominated by the State Government from amongst the officers of the State Government, who is not below the rank of Joint Secretary to Government.

4. Terms of office and conditions of service of Chairperson and members. (1) The Chairperson and the members other than those nominated by virtue of their office shall hold office for a period of three years. :-

(2) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and the members, shall

be such as may be prescribed.

5. Resignation of Chairperson and member :-

The Chairperson or a member may at any time resign his office by writing under his hand addressed to the State Government and on such resignation being accepted, he shall be deemed to have vacated his office.

6. Removal of Chairperson and member :-

Notwithstanding anything contained in sub-sec. (1) of Section 4 , the State Government may remove the Chairperson, or as the case may be, a member from his office, if he,

(a) is or has become subject to any disqualification mentioned in Section 7 ;

(b) remains absent, without leave of the Commission for more than three consecutive meetings of the Commission;

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

(d) in the opinion of the State Government, has so abused the position of the Chairperson or, as the case may be, member, as to render his continuance in office detrimental to the public interest, or is otherwise unfit or unsuitable to continue as such Chairperson or, as the case may be, member:

Provided that the Chairperson or, as the case may be, any member shall not be removed under this clause until he has been given a reasonable opportunity of being heard.

7. Disqualification for being Chairperson or member :-

A person shall be disqualified for being nominated as or for being a Chairperson or a non-official member, if he,

(a) is or becomes an undischarged insolvent;

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

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

8. Filling up of vacancies :-

A vacancy arising by reason of death, resignation or removal of the Chairperson or any member under Section 6 or otherwise shall be

filled up in accordance with the provisions contained in Section 3 .

9. Officers and other employees of Commission :-

(1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of the officers and other employees, shall be such as may be prescribed.

10. Salaries and allowances to be paid out of grants :-

The salaries and allowances payable to the Chairperson and members and the administrative expenses, including salaries and allowances payable to the officers and other employees, shall be paid out of the grants made to the Commission under Section 18 .

11. Defect in appointment of Chairperson or member not to invalidate acts or proceedings :-

(1) No act or proceeding of the Commission shall be questioned or invalid on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Commission.

(2) No act done by any person acting in good faith as Chairperson or member shall be deemed to be invalid merely on the ground that he was disqualified to be a Chairperson or a member or that there was any other defect in his nomination.

12. Constitution of ad hoc 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; and

(b) not more than two experts on the particular subject before the Commission.

(2) If the Chairperson is a member of the committee, the Chairperson or in her absence any other member shall preside over the meeting of the Committee.

(3) 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.

(4) The person so associated shall be entitled to receive such allowances for attending the meeting of the Committee at such rate as may be prescribed.

13. Procedure to be regulated by Commission :-

(1) The Commission or ad hoc Committee thereof shall meet at such time and such place as the Chairperson may think fit:

Provided that the Commission shall meet at least every quarter.

(2) The Commission shall determine procedure in regard to the transaction of its business at its meeting and meetings of the ad hoc committee appointed under Section 12 .

(3) Any order or decision of the Commission shall be authenticated by the member-secretary or any other officer of the Commission authorised in this behalf by the Chairperson.

14. Functions of Commission :-

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

(a) to examine all matters relating to the safeguards provided for women under the Constitution of India and other laws;

(b) to present to the State Government annually and at such other times as the Commission may think fit, reports upon the working of such safeguards;

(c) to make in such reports recommendations for . the effective implementation of such safeguards for improving the conditions of women by the State;

(d) to review from time to time, the existing provisions of laws relating to women and recommend amendments therein for the purpose of providing remedial legislative measures to meet with inadequate provisions of such laws;

(e) to take up the cases of violation of the provisions of the Constitution of India and of other laws relating to women with the appropriate authorities;

(f) to look into complaints and take suo moto notice of matters relating,

(i) deprivation of women's rights;

(ii) non-implementation of laws enacted to provide protection to

women and to achieve the objects of equality and development;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and to take up the issues arising out of such matters with appropriate authorities;

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

(h) to undertake promotional and educational research for the purposes of,-

(i) suggesting ways of ensuring due representation of women in all spheres;

(ii) identifying factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technology for reducing drudgery and occupational health hazards and for increasing their productivity;

(i) to participate and advise on the planning of socio-economic development of women;

(j) to evaluate the progress of the development of women under the State;

(k) to inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and to take up with the concerned authorities for remedial action, if necessary;

(l) to provide fund for litigation involving issues affecting a large body of women;

(m) to endeavour to promote through the media a more positive image or balanced depiction of women in society and continuously to interact, and try to educate the public opinion through media to enhance sensitivity to gender issues and bring about gender parity;

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

15. Powers of Commission :-

The Commission shall, for the purposes 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 (V 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 examination of witness:

Provided that the Commission shall not exercise aforesaid powers in respect of the matter which might be in conflict with said matter pending before the Court of law.

16. Consultation with Commission :-

The State Government may consult the Commission in respect of major policy matters affecting women.

17. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall be instituted against the Chairperson or any member or any officer or other employee of the Commission or any person acting under the direction either of the State Government or of the Commission for anything which is in good faith done, or intended to be done under this Act or the rules or orders made thereunder.

18. Grants by State Government :-

(1) The State Government shall pay such amount to the Commission by way of grants, as it may think fit for the purposes of this Act.

(2) The Commission may, with the previous sanction of the State Government and subject to such terms and conditions as may be specified in this behalf by the Government accept funds from any national or international organisation working in the field of women and child development, for achieving the objects of this Act.

(3) The Commission may spend such sums as it thinks fit for the performance of the functions under this Act out of the grants made to it and such sum shall be treated as the expenditure out of the

grants.

19. Preparation and submission of programme of work and annual statement of accounts. :-

(1) The Commission shall before such date as may be specified by the State Government, in each year, prepare and forward to the State Government,

- (i) a programme of work for the next year;
- (ii) an annual statement of accounts for the next year.

(2) The programme of its work shall contain,

- (i) activities to be taken during the succeeding year;
- (ii) such other particulars as may be prescribed.

(3) The annual statement of accounts shall contain a statement showing the receipt and expenditure on capital and revenue accounts for the next year.

(4) The State Government may sanction the programme and the annual statement of accounts forwarded to it with such modification as it thinks fit.

(5) The annual statement of accounts shall be prepared in such form as may be prescribed in consultation with the Accountant General of the State of Gujarat.

20. Accounts and audit :-

(1) The Commission shall maintain proper accounts and other relevant record in such manner as may be prescribed.

(2) The accounts of the Commission shall be audited by the Accountant General of the State 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 Accountant-General.

(3) The Accountant General and any person appointed by him for the purpose of the audit of the accounts of the Commission under this Act shall have the same right and the privileges and the authority for such audit as the Accountant-General generally has for such audit of the Government accounts and in particular, shall have the right to demand 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 Accountant-General or any other person duly appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government.

21. Concurrent and special audit of accounts :-

(1) Notwithstanding anything contained in Section 20 , the State Government may order that there shall be a concurrent audit of the accounts of the Commission by such person, as it thinks fit. The State Government may also direct a special audit to be made by such person, as it thinks fit, of the accounts of the Commission relating to any particular transaction or a class of series of transactions or to a particular period.

(2) When an order is made under sub-sec. (1) the Commission shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-sec. (1) such information as the said person may require for the purpose of audit.

22. Annual report :-

The Commission shall prepare, its annual report for such financial year giving a full account of its activities during the previous financial year in such form and at such time as may be prescribed and forward a copy thereof to the State Government.

23. Annual report and audit report to be laid before State Legislature :-

The State Government shall cause,

(1) the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the State Government and the reasons for non-acceptance, if any, of such recommendation, and

(2) the audit report to be laid as soon as may be, after the reports are received, before the State Legislature.

24. Chairperson, members and staff of Commission to be public servants :-

The Chairperson, 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 Sec. 21 of the Indian Penal Code (XLV of 1860).

25. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

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

(a) salaries and allowances payable to, and other terms and conditions of services of, the Chairperson and members, officers and other employees under sub-sec. (2) of Section 4 ;

(b) allowances payable for attending the meeting of the ad hoc committee by the persons appointed under sub-sec. (1) of Section 12 ;

(c) particulars of programmes of the work of Commission to be submitted to the State Government under sub-sec. (2) of Section 19 ;

(d) the form in which the annual statement of accounts shall be maintained under sub-sec. (5) of Section 19 ;

(e) the maintenance of accounts and other relevant record under sub-sec. (1) of Section 20 ;

(f) any other matter which is to be or may be prescribed under this Act.

(3) All rules made under this section, shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

26. Power to remove difficulties :-

(1) 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 provision not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of five 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.

27. Power of State Government to give directions :-

The State Government may, if it thinks fit, give directions to the Commission for carrying out execution of any of the provisions of this Act and the Commission shall be bound by such directions.

28. Repeal and savings :-

(1) The Gujarat State Commission for Women Ordinance, 2001 (Guj. Ord. 10 of 2001) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.