

## **Rajasthan State Commission For Women Act, 1999**

### **4 of 1999**

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## **Rajasthan State Commission For Women Act, 1999**

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#### PREAMBLE

An Act to constitute a State Commission for Women and to provide for matters connected therewith or incidental thereto.

Be it enacted by the State Legislature in the Fiftieth Year of the Republic of India as follows:--

#### **1. Short title, extent and commencement :-**

- (1) This Act may be called the Rajasthan State Commission for Women Act, 1999.
- (2) It shall extend to the whole of the State of Rajasthan.
- (3) It shall come into force at once.

## **2. Definitions :-**

In this Act unless the context otherwise requires,-

- (a) "Chairperson" means. Chairperson of the Commission appointed under section 3;
- (b) "Commission" means the Rajasthan State Commission for Women Constituted Under Section 3;
- (c) "member" means a member of the Commission;
- (d) "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 Constitutional 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 harassment or excesses on women.

## **3. Constitution of the Commission :-**

- (1) The State Government shall, by notification in the Official Gazette, constitute a Commission to be known as the Rajasthan State Commission for Women to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
- (2) The Commission shall consist of a Chairperson and not more than four members including the Member Secretary to be appointed by the State Government and out of the four members one shall be a woman either belonging to the Scheduled Castes or to the Scheduled Tribes and one shall be from other backward classes.
- (3) The Chairperson shall be an eminent woman committed to the cause of women with sufficient knowledge and experience in dealing with problems of women.
- (4) The members of the Commission shall be women of ability, integrity and standing and having adequate knowledge or experience or have shown ability in dealing with problems relating to safeguarding and promoting the interests of women and protecting their rights.

(5) The Secretary of the Commission shall be appointed by the State Government and shall exercise such powers and perform such functions of the Commission as may be prescribed or as may be delegated to her by the Commission.

(6) The Secretary shall receive such salary and allowances as are applicable to the post and the cadre from which she is drawn.

#### **4. Term of office and condition of service of members :-**

(1) Subject to the provisions of section 3, Chairperson and every members shall hold office for a period of three years.

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

(i) by writing under her hand and addressed to the State Government resign from office at any time;

(ii) be removed from her office in accordance with the provisions of section 8.

(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 3.

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

(4) Chairperson and every member shall receive such remuneration and allowances, and shall be governed by such conditions of service, as may prescribed by the State Government from time to time.

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

#### **5. Quorum :-**

The quorum for a meeting of the Commission shall be three including Chairperson.

#### **6. Disposal of Business :-**

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

(2) All question at a meeting of the Commission shall be decided by the 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 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.

#### **7. Order of the Commission not to be invalidated by infirmity or any vacancy etc. :-**

No order 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.

#### **8. Removal of Chairperson or member from office :-**

Chairperson or any member of the Commission may be removed from office by an order of the State Government, if she-

- (a) becomes an undischarged insolvent;
- (b) Is convicted and sentenced to imprisonment for an offence which involves moral turpitude or any other criminal activity;
- (c) becomes of unsound mind;
- (d) refuses to act or becomes incapable of acting;
- (e) is without obtaining leave of absence from the Commission absent for three consecutive meetings of the Commission; or
- (f) in the opinion of the State Government has so abused financially or otherwise the position of Chairperson or member as to render her continuance in office detrimental to the public interest:

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

#### **9. Officers and other employees of the Commission :-**

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

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

#### **10. Powers of the Commission to enforce attendance and**

## **production of documents :-**

(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/her;
- (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 commission, summons for the examination of witnesses.

(2) The Commission shall be deemed to be a Civil Court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Indian Penal Code, 1860 (Central Act 45 of 1860) or the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(3) Every proceeding before the Commission shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196, of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

## **11. Functions of the Commission :-**

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

- (i) inquire into any unfair practice, take decisions thereon and recommend to the Government actions to be taken in that matter;
- (ii) investigate or cause investigations to be made on issues of importance concerning women or issues concerning unfair practices and report thereon to the Government on the corrective measures

to be taken;

(iii) submit to the State Government an annual report or reports on,-

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

(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 in amelioration thereof;

(c) monitoring the recruitments made to State Public Services and State Public Undertakings and scrutinising the rules and regulation governing such recruitments with a view to reporting to the State Government for action, if any, required to guarantee equal opportunity to women in the matter of such recruitments;

(iv) (a) inspect or cause to be inspected, by any officer of the Commission duly authorised by the Commission in that behalf, any prison, police station, lockup, sub-jail, rescue home or other places of custody where women are kept as prisoners or otherwise, or shelters for women or other similar places run by the State 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 all such other places wherein unfair practices against 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, It may 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 for women and devise a programme for implementing such schemes which shall be forwarded to the State Government for approval and on obtaining approval thereof with or without modifications, implement the same or cause the same to be

implemented;

(vii) 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 statutes;

(viii) maintain a 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 investigation 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) advise on the planning process for socio-economic development of women;

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

(xiii) make periodical reports to the State 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) create awareness about the issues pertaining to women;

(xvi) any other matter which may be referred to it by the Government, the general public, the press or take suo moto cognizance of any rights infringement as is perceived by the Commission to be detrimental to the cause of women.

## **12. Inquiry into unfair practices :-**

(1) The Commission may 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 any registered womens organisation;

(b) on its own knowledge or information;

(c) on any request from the Government;

(d) on a complaint lodged by a person having personal knowledge of such unfair practice.

(2) Where the complaining 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 in such manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be enquired into.

(3) (i) where the person against whom the complaint has been made, appears and shows cause and satisfies the Commission, no further action be taken thereon for initiation of any proceedings;

(ii) where the person against whom the complaint has been made, appears and fails to satisfy the Commission or where he fails to appear on the day appointed for that purpose, the Commission may proceed to inquire into the matter alleged in the complaint and if the Commission finds that there is any unfair practice or there appears to be a special ground for proceeding in the matter, the Commission shall recommend to the State Government for initiating action and prosecution in that matter.

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

### **13. Initiation of prosecution :-**

If after investigation into any complaint under section 12, the Commission is satisfied that a person has committed any criminal offence and that the person should be prosecuted in a court of law for such offence, it may pass an order to that effect and initiate prosecution of the person concerned, if there is no necessity for prior sanction and if prior sanction of any authority is required for such prosecution, such sanction shall be obtained from that authority.

### **14. Annual and special reports of the Commission :-**

(1) The Commission shall submit an annual report to the State Government and it may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.



(2) The State Government shall cause the annual and special reports of the Commission to be laid before House of the State Legislature, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

**15. Sittings of the Commission :-**

(1) The place of the sitting of the Commission shall be at Jaipur, but for the purpose of inquiring into any unfair practice, it may hold sittings at any place within the State.

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

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

**16. State Government to consult the Commission :-**

The State Government shall, from time to time, consult the Commission on major policy matters affecting women.

**17. 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, 1860 (Central Act 45 of 1860).

**18. Grants by the State Government :-**

The State Government shall after due appropriation made by the State Legislature, by law, in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilised by the Commission for the purposes of this Act.

**19. Donations, contribution etc. to the Commission :-**

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 State Government, receive money from any organisation, or person by way of donation, contributions, or by whatever name called for the purpose of this Act.

## **20. Accounts and Audit :-**

(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Accountant General, Rajasthan.

(2) Accounts of the Commission shall be audited by such authority or body as may be prescribed by the State Government and the expenditure incurred in connection with such audit shall be payable out of the grant provided to the Commission.

(3) The Authority or the body prescribed under sub-section (2) shall have the same rights, privileges and authority in connection with such audit as the Accountant General, Rajasthan has in connection with the audit of Government accounts and in particular shall have the right to the productions of books, accounts, connected vouchers and other documents and to inspect other relevant records of the Commission pertaining to the accrual of funds and their disbursements.

(4) The accounts of the Commission as certified by the auditor, auditing accounts under this section, together with the audit report thereon shall be forwarded annually to the State Government by the Commission.

## **21. 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.

## **22. 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 foregoing 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 service of the Chairperson and members;
  - (b) salaries and allowances payable to, and conditions of service of, officers and other employees appointed for the purposes of the Commission;
  - (c) the form in and the time at which the annual statement of accounts shall be maintained;
  - (d) any other matter which is required to be, or may be, prescribed in accordance with the provisions of this Act.
- (3) All rules made under this Act, shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which they are so laid or the session immediately following, the house of the State Legislature makes any modification in any such rules, or resolves that any such rule should not be made, such rule shall thereafter have effect in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of any thing previously done thereunder.