

Himachal Pradesh State Commission For Women Act, 1996

(Act No. 22 Of 1997)

Content

1. Short title, extent and commencement.
2. Definitions.
3. Constitution of Commission.
4. Term of office and conditions of service of Chairperson and Members.
5. Officers and other employees of Commission.
6. Salaries, honoraria and allowances to be paid out of Grants.
7. Vacancies etc., not to invalidate proceedings of Commission.
8. Committees of Commission.
9. Procedure to be regulated by Commission.
10. Functions of Commission.
11. Government to consult Commission.
12. Power of Commission to utilise the service of certain officers and investigation agencies for conducting investigation.
13. Statements made by persons to Commission.
14. Registration of voluntary organisations and seeking their assistance.
15. Protection of act done in good faith.
16. Grants by State Government.
17. Accounts and audit.
18. Annual report.
19. Annual report and audit report to be laid before State Legislature.
20. Chairperson, Members etc. to be public servants.
21. Power to make rules.

Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 2nd December, 1996, pp. 5364 and 5373.

Received the assent of the President on 9th October, 1997, and was published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 25th October, 1997, pp. 4261-4280.

Amended, repealed or otherwise affected by-

H.P. Act No. 12 of 2008 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 9th June, 2008, pp. 326 and 329 assented to by the Governor on the 7th June, 2008, published both in Hindi and English in the Rajpatra, Himachal Pradesh dated 9th June, 2008, pp. 1566-1567.

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

WHEREAS it is expedient to provide for the constitution of a Commission with the aim of furthering the fundamental rights guaranteed by Articles 14, 15 and 16 of the Constitution of India with respect to women and to give effect to the Directive Principles of State Policy and in particular those enshrined in Articles 38, 39, 39A and 42 of the Constitution to improve the status and dignity of women in the society, to investigate into and take or suggest suitable remedial measures against practices derogatory to women, to effectively monitor and implement laws affecting women and to advise the Govt. in all matters related to the improvement and upliftment of status and dignity of women in the society and for matters connected herewith or incidental thereto.

#### Himachal Pradesh State Commission For Women Act, 1996

(Act No. 22 Of 1997)

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-Seventh Year of the Republic of India as follows:-

#### 1. Short title, extent and commencement.

(1) This Act may be called the Himachal Pradesh State Commission for Women Act, 1996.

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

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

#### 2. Definitions.

In this Act, unless the context otherwise requires,-

(a) "Commission" means the Himachal Pradesh State Commission for Women constituted under section 3 ;

(b) "Director General of Police" means the Director General of Police, Himachal Pradesh State;

(c) "Member" means a Member of the Commission and includes the Chairperson and the Member-Secretary ;

(d) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990 (20 of 1990) ;

(e) "prescribed" means prescribed by rules made under this Act ; and

(f) "Women" includes female-child or 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 Himachal Pradesh 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) a Chairperson, who shall be an eminent woman committed to the cause of women ;

(b) not more than four non-official members preferably women, to be nominated by the State Government from amongst the persons 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:

Provided that, at least one member each shall be from amongst persons belonging to the Scheduled Castes and the Scheduled Tribes, respectively;

(c) the Commissioner-cum-Secretary (Welfare) and the Director General of Police shall be the ex-officio members of the Commission ;

(d) one Member-Secretary, to be appointed by the State Government, shall be any officer, who is or has been a member of the Civil Services of the State or of an All India Service or holds a civil post under the State.

### 4. Term of office and conditions of service of Chairperson and Members.

Sub-section (1) substituted vide Act No. 12 of 2008.

(1) The Chairperson and non-official members shall hold office during the pleasure of State Government but not exceeding three years.]

(2) The Chairperson or a non-official member may, at any time, by writing and addressed to the State Government, resign from the office of the Chairperson or of the office of the member.

(3) Notwithstanding anything contained in sub-section (1), the State Government may remove a person from the office of the Chairperson or member if, that person-

(a) 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 ;

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

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

(f) in the opinion of the State Government, has so abused the position of the Chairperson or member as to render that person's continuance in office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such Chairperson or member :

Provided that, no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (2) or (3) or in any other manner, shall be filled in, as soon as may be, by a fresh nomination by the State Government; and the person so nominated shall hold office for the remainder of the term of office of the person in whose vacancy such person has been nominated and would have held office, if the vacancy had not occurred:

Provided that, if the vacancy of a member other than that of the Chairperson occurs within six months preceding the date on which the term of office of the member expires, the vacancy shall not be filled in.

(5) The salary, honorarium, if any, and allowances payable to, and the other terms and conditions of holding the office of the Chairperson and the members shall be such as may be prescribed.

#### 5. Officers and other employees of Commission.

(1) The State Government shall provide the Commission with such officers and employees as, in the opinion of the State Government, 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 appointed for the purpose of the Commission shall be such as may be prescribed.

#### 6. Salaries, honoraria and allowances to be paid out of Grants.

The salaries, honoraria and allowances payable to the Chairperson and members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in section 16.

#### 7. Vacancies etc., not to invalidate proceedings of Commission.

No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy in, or defect in the constitution of the Commission or any defect in the nomination of a person acting as the Chairperson or a member or any irregularity in the procedure of the Commission, including issuing of notice for holding of a meeting, not affecting merits of the matter.

## 8. Committees of Commission.

(1) The Commission may appoint such Committees as may be necessary for the efficient performance, exercise and discharge of its functions, powers and duties and also for dealing with such special issues as may be taken up by the Commission, from time to time.

(2) The Commission shall have the power to co-opt one or more persons as it may think fit, on any committee appointed under sub-section (1), and such person or persons, who are not members of the Commission, shall have the right to attend the meetings of the committee and take part in its proceedings, but shall not have the right to vote.

(3) The person so co-opted shall be entitled to receive such allowances towards expenses for attending the meetings and any other task of the Committee, as may be prescribed.

(4) The Commission may invite, any representative of the National Commission for Women to any of its meetings, or may associate with itself, in such manner and for such purposes as it may deem necessary, any person whose assistance or advice it may need in complying with any of the provisions of this Act or in carrying out any of its functions under this Act; and a person so invited or associated shall have the right to take part in the discussions of the Commission relevant to the purposes for which such representative or person has been invited or associated, but shall not have the right to vote.

## 9. Procedure to be regulated by Commission.

(1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place, as the Chairperson may deem fit.

(2) The Commission shall regulate its own procedure and the procedure of the committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member- Secretary in this behalf.

## 10. Functions of Commission.

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

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

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

(c) make in such reports recommendations for the effective implementation of those safeguards for improving the condition of women by the State;

(d) review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings

in such legislations ;

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

(f) entertain complaints and take suo-moto notice of matters relating to,-

(i) deprivation of women's rights ;

(ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development ;

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

(g) render guidance and advice to needy women in instituting proceedings in any judicial forum or tribunal for violation of constitutional provisions or any other laws relating to women;

(h) 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 ;

(i) 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 ;

(j) participate and advice on the planning process of socio-economic development of women ;

(k) evaluate the progress of the development of women in the State;

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

(m) fund litigation including police complaints involving issues affecting a large body of women or the interpretation of any provision of the Constitution or any other laws affecting women, and present to the State Government, every six months, report relating to such matters ;

(n) make periodical reports to the State Government or any matter pertaining to women and, in particular, various difficulties under which women toil ;

(o) co-operate with and assist and seek co-operation and assistance of the National Commission for Women and other Commissions for Women set up by different State Governments and also the Commission for Scheduled Castes and Scheduled Tribes and the Minorities Commission ;

(p) frame schemes for the consideration of the State Government or any other appropriate authority for more effective implementation of this Act and, in

particular, frame schemes for more effective implementation of laws relating to payment of maintenance to deserted women, payment of minimum wages, ensuring equal pay for equal work, housing and shelter for women, prevention of domestic violence, prevention of sexual harassment at work, prevention of illegal traffic in women, improvement of the health and safety in women and legal aid for women ; and

(q) any other matter which may be referred to it by the State Government or by the National Commission for Women.

(2) The State Commission shall, while investigating any matter referred to in clause (a) or sub-clauses (i) and (ii) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit, and in particular, in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any person from any part in the State and examining him on oath ;

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

(c) receiving evidence on affidavits ;

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

(e) issuing commissions for the examination of witnesses and documents ; and

(f) any other matter which may be prescribed.

(3)(a) On any investigation mentioned in clause (a) or sub-clauses (i) and (ii) of clause (f) of sub-section (1) being completed, the Commission on taking up the matter with the State Government or the appropriate authority under clause (e) or (f) of sub-section (1) 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 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 prosecutor, do so.

(b) 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.

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

11. Government to consult Commission.

The State Government shall consult the Commission on all major policy matters affecting women.

12. Power of Commission to utilise the service of certain officers and investigation agencies for conducting investigation.

(1) The Commission may, for the purpose of conducting investigations under this Act utilise the services of,-

(a) any officer or investigation agency of the State or the Central Government with the concurrence of that Government ; or

(b) any other person.

(2) For the purpose of conducting an investigation, any officer or agency referred to in clause (a) of sub-section (1) may, subject to the direction and control of the Commission,-

(a) summon and enforce the attendance of any person and examine him ;

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

(c) requisition any public record or copy thereof from any office.

(3) Such officer or agency or the person shall investigate into the matter as directed by the Commission and submit a report thereon (hereinafter, in this section, referred to as "the investigation report"), to the Commission within such period or extended period as may be specified or extended by the Commission in this behalf.

(4) The Commission shall satisfy itself about the correctness of the facts stated and the conditions, if any, arrived at in the investigation report submitted to it under sub-section (3), and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

### 13. Statements made by persons to Commission.

No statement made by a person in the course of giving evidence before the Commission or an officer, or agency, referred to in clause (a), or the person appointed under clause (b) of sub-section (1) of section 12, shall subject him to, or be used against him in any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement,-

(a) is made in reply to a question which is required by the Commission or such officer or agency or such person to answer, or

(b) is relevant to the subject matter under investigation.

### 14. Registration of voluntary organisations and seeking their assistance.

(1) Any voluntary organisation for women within the State may seek registration with the Commission for the purposes of the Act. The Commission may, after satisfying itself in the manner deemed fit by the Commission about the value and role of such organisation in the society, include the name of such organisation in its register.

(2) The Commission may maintain a register of voluntary organisations within the State and more particularly women's organisations whose assistance it may seek for the discharge of its functions.



(3) In discharge of its functions, the commission may seek the assistance of any voluntary Organisations within the State, more particularly, the women's organisations.

(4) A list of such organisations registered with the Commission shall be made available to any court or authority, or, on request, to the members of general public.

(5) If, for any reasons to be recorded in writing, the Commission deems it fit to cancel the name of any organisation from its register, it may do so, after giving such organisation a reasonable opportunity to be heard.

(6) The decision of the Commission about such cancellation shall be final.

#### 15. Protection of act done in good faith.

No suit, prosecution or other legal proceedings shall lie against any member of the Commission 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, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

#### 16. Grants by State Government.

(1) 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 from the Consolidated Fund of the State, such sums of money as the State Government may think for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums of money shall be treated as expenditure payable out of the grants referred to in sub-section (1).

#### 17. 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 of the State of Himachal Pradesh.

(2) The annual 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 in connection with the audit of the accounts of the Commission under this Act, shall have the same rights and privileges and the authority in connection with such audit as the Accountant General 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 paper 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 or authorised by him in this behalf, together with the

audit report thereon shall be forwarded annually to the State Government, by the Commission.

18. Annual report.

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

19. Annual report and audit report to be laid before State Legislature.

The State Government shall cause the annual report and all the reports under clauses (b), (m) and (n) of sub-section (1) of section 10 together with the memorandum of action taken or proposed to be taken on the recommendation contained therein, in so far as they relate to the State Government and the reasons for the non-acceptance, if any, of such recommendations, and the audit report, to be laid as soon as may be after the reports are received, before the State Legislature.

20. Chairperson, Members etc. to be public servants.

The Chairperson, the members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

21. 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) Every rule made under this Act, shall, as soon as possible, after it is made or issued, be laid on the table of the Legislative Assembly and if, before the expiry of the Session in which it is so laid or the next session, the Assembly makes any modification in any such rule or notification or the Assembly decides that rule should not be made, the rule shall thereafter have effect only 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 anything previously done or omitted to be done under that rule.