

THE WEST BENGAL COMMISSION FOR BACKWARD CLASSES ACT, 1993

GOVERNMENT OF WEST BENGAL LAW DEPARTMENT Legislative

NOTIFICATION

No. 427-L.—15th March, 1993.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:--

West Bengal Act I of 1993

THE WEST BENGAL COMMISSION FOR BACKWARD CLASSES ACT, 1993.

[Passed by the West Bengal Legislature]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 15th March, 1993.]

An Act to constitute a State Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to constitute a State Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto;

IT IS HEREBY enacted in the Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:--

CHAPTER I

Preliminary

1. **Short title, extent and commencement** (1) This Act may be called the West Bengal Commission for Backward Classes Act, 1993.
(2) It extends to the whole of West Bengal.
(3) It shall come into force at once.
2. **Definitions**
In this Act unless the context otherwise requires,--
 - (a) “backward classes”, for the purpose of this Act, means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the State Government in the lists;
 - (b) “Commission” means the West Bengal Commission for Backward Classes constituted under section 3;

(c) “lists” means lists prepared by the Government of West Bengal from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of West Bengal and any local or other authority within the territory of West Bengal or under the control of the Government of West Bengal;

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

(e) ”prescribed” means prescribed by rules made under this Act.

CHAPTER II

The West Bengal Commission for Backward Classes

- 3.** (1) The State Government shall constitute a body to be known as the West Bengal Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- Constitution of the Commission for Backward Classes**
- (2) The Commission shall consist of the following Members nominated by the State Government:--
- (a) A Chairperson, who is or has been a Judge of the High Court;
 - (b) a social scientist;
 - (c) two persons, who have special knowledge in matters relating to backward classes; and
 - (d) a Member-Secretary, who is or has been an officer of the State Government in the rank of a Secretary to the Government of West Bengal.
- 4.** (1) Every Member shall hold office for a term of three years from the date he assumes office.
- (2) A Member may, by writing under his hand addressed to the State Government, resign from the office of Chairperson or, as the case may be, of Member at any time.
- Terms of office and conditions of service of Chairperson and Members.**
- (3) The State Government shall remove a person from the office of 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) has, in the opinion of the State Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:

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

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

5.

Officers and other employees of the 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.

(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 and allowances to be paid out of grants

The salaries 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 sub-section (1) of section 12.

7.

Vacancies etc. not to invalidate proceedings of the Commission

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

8.

Procedure to be regulated by the Commission

(1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(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.

CHAPTER III

Functions and Powers of the Commission

9.

**Functions of
the
Commission**

(1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the State Government as it deems appropriate.

(2) The advice of the Commission shall ordinarily be binding upon the State Government

10. The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:--

**Powers of the
Commission**

- (a) summoning and enforcing the attendance of any person from any part of India 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 witness and documents; and
- (f) any other matter which may be prescribed.

11.

**Periodic
revision of
the lists by
the Central
Govt.**

(1) The State Government may at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(2) The State Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

CHAPTER IV

Finance, Accounts and Audit

12. **Grants by the 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 such sums of money as the State Government may think fit 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 shall be treated as expenditure payable out of the grants referred to in sub-section (1).

13. **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, West Bengal.

¹(2) The annual statement of accounts referred to in sub-section (1) shall be submitted to such examination and audit as the State Government may direct, and subject to the provisions of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 and the rules and order made thereunder, the Governor of the State may entrust the audit of such accounts to the Comptroller and Auditor-General of India.

56 of 1971

(3) ²[The Comptroller and Auditor-General of India], West Bengal, 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 ²[the Comptroller and Auditor-General of India], West Bengal, generally has in connection with the audit of the 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.

³(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the State Government and the State Government shall cause the same to be laid, as soon as may be after it is received, before the Legislative Assembly.

14. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report giving full accounts of its

Annual Report

¹ Substituted by West Ben. Act VI of 2007 with effect from 16-5-2007

² Substituted by West Ben. Act VI of 2007 with effect from 16-5-2007

³ Inserted by West Ben. Act VI of 2007 with effect from 16-5-2007

activities during the previous financial year and forward a copy thereof to the State Government.

15.

Annual Report and audit report to be laid before the legislature

The State Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before the State Legislature.

CHAPTER V

Miscellaneous

16.

Chairperson, Members and employees of the Commission to be public servants

The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the **45 of 1860** Indian Penal Code.

17.

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 powers, such rules may provide for all or any of the following matters, namely:--

- (a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under subsection (2) of section 5;
- (b) the form in which the annual statement of accounts shall be maintained under subsection (1) of section 13;
- (c) the form in, and the time at, which the annual report shall be prepared under section 14;
- (d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or the State Legislature agrees that the 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 under that rule.

18. (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 provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

**Power to
remove
difficulties**

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

By order of the Governor
S. K. Phaujdar,
Secy. to the Govt. of West Bengal