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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1413-L.—22nd July, 1996.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XVI of 1996

THE WEST BENGAL MINORITIES' COMMISSION ACT, 1996.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 22nd July, 1996.]

An Act to constitute a Minorities' Commission to study and suggest additional social, economic, educational and cultural requirements of religious and linguistic minorities of West Bengal with a view to equipping them to preserve secular traditions of West Bengal and to promote national integration.

WHEREAS it is expedient to constitute a Minorities' Commission to study and suggest additional social, economic, educational and cultural requirements of religious and linguistic minorities of West Bengal with a view to equipping them to preserve secular traditions of West Bengal and to promote national integration;

It is hereby enacted in the Forty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title, extent
and commence-
ment.

1. (1) This Act may be called the West Bengal Minorities' Commission Act, 1996.
- (2) It extends to the whole of West Bengal.
- (3) It shall come into force on such date as the State Government may, by notification, appoint,

*The West Bengal Minorities' Commission
Act, 1996.*

(Sections 2-4.)

Definitions.

2. In this Act, unless the context otherwise requires,—
- (a) "Commission" means the West Bengal Minorities' Commission constituted under section 3;
 - (b) "Member" means a Member of the Commission;
 - (c) "Minority", for the purpose of this Act, means a community based on religion such as Muslim, Christian, Sikh, Buddhist, or Zoroastrian (Parsee), and includes—
 - (i) such other minority as the Central Government may notify under clause (c) of section 2 of the National Commission for Minorities Act, 1992, or
 - (ii) such other minority based on language within the purview of article 29 of the Constitution of India (hereinafter referred to as the Constitution) as the State Government may, by notification, specify from time to time;
 - (d) "notification" means a notification published in the *Official Gazette*;
 - (e) "prescribed" means prescribed by rules made under this Act.

19 of 1992.

Constitution of the Commission.

3. (1) The State Government shall constitute a body to be known as the West Bengal Minorities' Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

- (2) The Commission shall consist of the following Members:—
- (a) a Chairperson, who shall be a person of public eminence, to be nominated by the State Government,
 - (b) a Vice-Chairperson to be nominated by the State Government,
 - (c) a Member-Secretary,
 - (d) the Secretary, Minorities' Development and Welfare Department, Government of West Bengal, *ex officio*,
 - (e) a representative of the West Bengal Minorities Development and Finance Corporation, *ex officio*, and
 - (f) such number of other members from amongst persons of public eminence, not exceeding five, of whom one shall be a woman, as the State Government may nominate:

Provided that at least five members, one of whom shall be a woman, shall be from amongst the notified minority communities.

Functions of the Commission.

4. (1) The Commission shall perform the following functions:—
- (a) evaluate the progress of the development of minorities of West Bengal and review implementation of the policies and programme of the State Government;
 - (b) monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament or the State Legislature;
 - (c) make recommendations for the effective enforcement and implementation of safeguards for the protection of the interests of minorities provided by the Central Government or the State Government;
 - (d) look into specific complaints regarding deprivation of social, economic, educational, cultural and linguistic rights and safeguards of the minorities and take up such matters with the appropriate authorities;
 - (e) recommend to the State Government to accord minority status to religious, linguistic and ethnic groups, provided such groups do not enjoy any constitutional or statutory benefits or status;
 - (f) cause studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal;
 - (g) conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities;
 - (h) make annual report to the State Government on any matter pertaining to any of the functions of the Commission under this section.

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(Sections 5-7.)

- (2) (a) The Commission shall have the powers of a civil court trying a suit while performing the functions under sub-section (1);
- (b) The Commission shall, while investigating or enquiring into any complaints regarding violation or infringement of any rights of the minority as guaranteed by the Constitution or as conferred by or under any Central Act or State Act, shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and, in particular, in respect of the following matters:—
- (i) summoning and enforcing the attendance of any person from any part of India, and examining him on oath,
 - (ii) requiring the discovery and production of any document,
 - (iii) receiving evidence on affidavits,
 - (iv) requisitioning any public record or copy thereof from any court or office,
 - (v) issuing commissions for the examination of witnesses and documents, and
 - (vi) any other matter which may be prescribed.
- (3) The advice of the Commission and, especially, the findings of the Commission concerning deprivation of any right of the minority or any infringement of any well-being of the minority by omission or commission, shall ordinarily be binding upon the State Government.

Term of office and conditions of service of Chairperson, Vice-Chairperson, Members and Member-Secretary.

5. (1) The Chairperson, Vice-Chairperson and every Member shall hold office for a term of three years from the date he assumes office.

(2) The Chairperson, Vice-Chairperson or a Member may, at any time, by writing under his hand addressed to the State Government, resign from the office of the Chairperson, Vice-Chairperson or Member, as the case may be.

(3) A person shall be disqualified for being chosen as, and for being, a Member of the Commission—

- (a) if he is a lunatic or a person of unsound mind, or
- (b) if he has been adjudged insolvent, or
- (c) if he has been convicted of an offence involving moral turpitude, or
- (d) if he refuses to act or becomes incapable of acting, or
- (e) if he is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission, or
- (f) if he has, in the opinion of the State Government, so abused the position of Chairperson, Vice-Chairperson or Member as to render that person's continuance in office detrimental to the interests of minorities or the public interest:

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 otherwise shall be filled up by fresh nomination.

(5) The Member-Secretary shall be entitled to such pay and allowances as the State Government may determine.

Procedure to be regulated by the Commission.

6. (1) The headquarters of the Commission shall be in Calcutta.

(2) The Commission shall meet as and when necessary at such time and place as the Commission thinks fit.

(3) The Commission shall make rules to regulate its own procedure.

(4) 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.

Member-Secretary.

7. The Member-Secretary shall be whole-time, and shall be appointed by the State Government.

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(Sections 8-13.)

Officers and other
employees of the
Commission.

8. (1) (a) The State Government shall, in consultation with the Commission, provide it with such officers and other employees, on deputation, as may be necessary for efficient performance of the functions of the Commission.
- (b) Notwithstanding anything contained in clause (a), the posts of officers and other employees of the Commission shall be created and filled up with the prior approval of the State Government.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Commission, other than those who are on deputation, shall be such as may be prescribed by the Commission in consultation with the Government.

Salaries and
allowances to be
paid out of grants.

9. The allowances payable to the Chairperson, Vice-Chairperson and Members and the administrative expenses including salaries, allowances and pensions payable to the officers and other employees referred to in section 7 and section 8, shall be paid out of the grants referred to in sub-section (1) of section 10.

Grants by the
State Government.

10. (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).

Accounts and
audit.

11. (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 in consultation with the Accountant-General, West Bengal.

(2) The annual accounts of the Commission shall be audited by the Accountant-General, West Bengal.

(3) The Accountant-General, West Bengal, shall have the same rights and privileges and the authority in connection with such audit as the Accountant-General, West Bengal, 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 the office of the Commission.

(4) The Commission shall forward to the State Government annually the accounts of the Commission as certified by the Accountant-General, West Bengal, together with the audit report thereon.

Annual report.

12. (1) The Commission shall prepare for each financial year, in such form, and at such time, 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.

(2) An Accounts Officer of the State Government shall be placed at the disposal of the Commission by the State Government for ensuring compliance with the provisions of section 11 and sub-section (1) of this section.

Chairperson, Vice-
Chairperson,
Members and staff
of the Commission
to be public
servants.

13. The Chairperson, Vice-Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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(Sections 14-16.)

Power to make
rules.

14. (1) The State Government may, by notification, 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:—

- (a) allowances payable to, and the other terms and conditions of service and facilities of, the Chairperson, Vice-Chairperson and Members, and of officers and other employees, under sub-section (1) of section 9;
- (b) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 11;
- (c) the form in which, and the time at which, the annual report shall be prepared under sub-section (1) of section 12;
- (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.

Power to remove
difficulties.

15. (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.

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

Repeal, saving
and validation.

16. (1) The resolution made under notification No. 84-P.M., dated the 14th July, 1994, read with the resolution made under notification No. 178-P.M., dated the 13th September, 1995, by the State Government constituting the West Bengal Minorities' Commission (hereinafter referred to as the former Commission) is hereby repealed.

(2) Upon such repeal,—

- (a) all property and assets under the control of the former Commission and all rights, liabilities and obligations acquired or incurred by the former Commission before the commencement of this Act shall vest in the Commission in accordance with such order as the State Government may make in this behalf;
- (b) all legal proceedings or remedies instituted or enforceable by or against the former Commission before the commencement of this Act may be continued or enforced, as the case may be, by or against the Commission as established under this Act or, until the Commission is so established, by or against such officer or authority as the State Government may by order specify

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(Section 17.)

- (c) all officers and other persons in the employ of the former Commission immediately before the commencement of this Act shall, until other provision is made, continue in the service of the Commission.

Repeal.

17. The West Bengal Minorities' Commission Ordinance, 1996, is hereby repealed. West Ben. Ord.
IV of 1996.

By order of the Governor,

S. MAITRA,
Special Officer & ex officio
Jt. Secy. to the Govt. of West Bengal.