

THE KERALA STATE COMMISSION FOR BACKWARD CLASSES

ACT, 1993 [1] .

(ACT 11 OF 1993)

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

Preamble .- WHEREAS it is necessary 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 ;

BE it enacted in the Forty-fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Kerala State Commission for Backward Classes Act, 1993.

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

(3) It shall be deemed to have come into force on the 10 th day of March, 1993.

2• Definitions .- In this Act, unless the context otherwise requires,-

- “backward classes” means such backward classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as are specified by the Government as ‘other backward classes’ in the list ;

- “Commission” means the Kerala state Commission for Backward Classes constituted under section 3 ;

- ‘Government’ means the Government of Kerala ;

- “list” means the list of ‘other backward classes’ declared as such by the Government from time to time for the purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of the Government, are not adequately represented in the services under the Government and any local or other authority within the state or under the control of the Government ;

- “Member” means a Member of the Commission and includes the Chairperson ;

- “prescribed” means prescribed by rules made under this Act.

CHAPTER II

THE STATE COMMISSION FOR BACKWARD CLASSES

3. Constitution of the Kerala State Commission for Backward Classes .- (1) The Government shall constitute a body to be known as the Kerala state Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

[2]. (2) The commission shall consists of a Chairman who is or has been a judge of the Supreme Court or of a High court appointed by the Government and the following members, that is to say,-

- the Secretary to Government in charge of the Backward classes Welfare Department of the Government, ex-officio , who shall be the Member-Secretary of the Commission;

- two persons having special knowledge in matters relating to Backward Classes to be nominated by the Government.)

4. Term of Office and conditions of service of Chairperson and Members .- (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 Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(3) The Government shall remove a person from the office of Members if that person.-

- becomes an undischarged insolvent ;
- is convicted and sentenced to imprisonment for an offences, which in the opinion of the Government involves moral turpitude;
- becomes of unsound mind and stands so declared by a competent court;
- refuses to act or becomes incapable of acting ;
- is, without obtaining leave of absence from the Commission absent from three consecutive meetings of the Commission ; or
- has, in the opinion of the 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 unless that person has been given a reasonable opportunity of being heard in the matter.

(4) A vacancy cause under sub-section (2) or otherwise shall be filled by fresh nomination within a period of three months.

(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 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, allowances and administrative expenses 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 the 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 ;

Provided that it shall meet at least once in three months.

(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 Government as it deems appropriate.

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

10. Powers of the Commission.- 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:-

- summoning and enforcing the attendance of any person from any part of the State and examining him on oath ;

- requiring the discovery and production of any document;
- receiving evidence on affidavits;
- requisitioning any public record or copy thereof from any court or office;
- issuing commissions for the examination of witnesses and documents; and
- any other matter which may be prescribed.

11. Periodic revision of lists by Government.- (1) The 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 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 Government.- (1) The 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 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 Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor General of India 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 Comptroller and Auditor General of India.

(3) The Comptroller and Auditor General of India 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 Comptroller and Auditor General of India 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 any of the offices of the Commission.

14. 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 Government.

15. Annual report and audit report to be laid before the Legislature .- The 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 Legislative Assembly.

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 Indian Penal Code (Central Act 45 of 1860).

17. Power to make rules .- (1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act either prospectively or retrospectively.

(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:-

- 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 sub-section (2) of section 5 ;

- the form, in which the annual statement of accounts shall be maintained under sub-section (1) of section 13 ;

- the form in, and the time at which the annual report shall prepared under section 14 ; and
- 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 Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides 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. Powers to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act the Government may, by order published in the 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, as soon as may be after it is made, be laid before the Legislative Assembly.

19. Repeal and saving.- (1) The Kerala State Commission for Backward Classes Ordinance 1993 (Ordinance No.5 of 1993) 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.

THE KERALA STATE COMMISSION FOR BACKWARD

CLASSES (AMENDMENT) ACT, 2000 [1]

(Act 10 of 2000)

An Act to amend the Kerala State Commission for Backward Classes Act, 1993.

Preamble.--WHEREAS it is expedient to amend the Kerala State Commission for Backward Classes Act, 1993 for the purpose hereinafter appearing;

BE it enacted in the Fifty-first year of the Republic of India as follows:--

1. Short title and commencement.-- (1) This Act may be called the Kerala State Commission for Backward Classes (Amendment) Act, 2000.

(2) It shall be deemed to have come into force on the 18th day January, 2000.

2. Amendment of section 3.-- In the Kerala State Commission for Backward Classes Act, 1993 (11 of 1993) (hereinafter referred to as principal Act), for sub-section (2) of section 3, the following sub-section shall be substituted, namely:--

"(2) The commission shall consist of a Chairman who is or has been a Judge of the Supreme Court or of a High Court appointed by the Government and the following members, that is to say,--

(a) the Secretary to Government in charge of the Backward Classes Welfare Department of the Government, ex-officio, who shall be the Member-Secretary of the Commission;

(b) *two persons having special knowledge in matters relating to Backward Classes to be nominated by the Government”.*

3. *Repeal and saving.- (1) The Kerala State Commission for Backward Classes (Amendment) Ordinance, 2000 (2 of 2000) is hereby repealed.*

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