



The Puducherry Women's Commission Act, 2001

Act 2 of 2002

Keyword(s):
Public Servant, Unfair Practice

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THE PUDUCHERRY WOMEN'S COMMISSION ACT, 2001
(Act No. 2 of 2002)

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(Act No. 2 of 2002)

(12-01-2002)

AN
ACT

to provide for the Constitution of a Women's Commission to improve the status of women in the Union territory of Puducherry and to enquire into unfair practices affecting women and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Puducherry in the Fifty-second Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Puducherry Women's Commission Act, 2001.

(2) It extends to the whole of the Union territory of Puducherry.

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

Definitions

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

(a) "Commission" means the Commission constituted under section 5;

(b) "Director" means the Director appointed under section 12;

(c) "Government" means the Administrator appointed by the President of India under article 239 of the Constitution;

(d) "member" means a member of the Commission and includes the Chairperson;

(e) "person" includes a firm, company, corporation or any public undertaking, association of persons or the Government and its agencies including agencies receiving aid from the Government;

(f) "prescribed" means prescribed by the rules made under this Act;

+ This Act has come into force w.e.f 05.10.04 vide GO.Ms.No.35/2004-(wel.sw-IV) dt.05.10.04 published in the Gaz. No.45 dt.09.11.04.

(g) "public servant" means any employee of the Government or a local body or any corporation owned or controlled by the Government or any Government Agency or any public undertaking;

(h) "registered" means registered with the Commission under this Act;

(i) "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 fundamental constitutional rights, or of human 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 excesses on women.

Act not to apply in certain cases

3. 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:

Provided that if any case involving person or persons belonging to these categories comes up before the Commission, the Commission will have the powers to refer the matter to the National Commission with its findings and recommendations.

Application of other laws not barred

4. Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, except to the extent the provisions of the other law are inconsistent with the provisions of this Act.

Constitution of the Commission

5. (1) For the purpose of this Act, the Government shall, by notification in the official gazette, constitute a Commission to be known as the Puducherry Women's Commission which shall consist of a Chairperson and not more than six other members to be appointed by the Government provided that at least one member each shall be from amongst persons belonging to the Scheduled Castes and the Scheduled Tribes respectively.

(2) The Chairperson shall be an eminent woman committed to the cause of women with sufficient knowledge and experience in dealing with women's problems.

(3) The members of the Commission shall be persons of ability, integrity, intelligence and standing and having adequate knowledge or experience or have shown ability in dealing with problems relating to safeguarding and promoting the interest of women and protecting their rights.

Terms of office and conditions of service of members

6. (1) Every member including the Chairperson shall hold office for a period of three years.

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

- (i) by writing under his hand and addressed to the government resign his office at any time;
- (ii) be removed from his office in accordance with the provisions of section 11.

(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 5:

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

(4) The remuneration payable to the members shall be fixed by the Government.

Quorum

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

Disposal of business

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

(2) All questions 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 second or casting vote.

(3) The Commission may invite, if it is considered necessary, for such purpose 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.

(4) In case the outlying regions are not properly represented in the Commission, or if the Commission decides so, the Commission can constitute committees in the outlying regions to help it to dispense with issues thereon, the Constitution of which may be decided by the Commission.

Constitution of *ad hoc* Committees

9. (1) The Commission may for the purpose of transacting any business before it or for any special issue constitute an *ad hoc* committee consisting of –

- (a) not more than two members of the Commission;
- (b) not more than two experts on the particular subject before the Commission.

(2) If the Chairperson is a member of the committee, the Chairperson or any other members shall preside over the meeting of the committee.

(3) The provisions of sections 7,8 and 21 shall *mutatis mutandis* apply to the meetings of the committee.

(4) The final report of the *ad hoc* committee shall be placed before the Commission for its approval and on the approval thereof by the Commission be deemed to be the report of the Commission.

(5) The persons in the *ad hoc* committee shall be paid such remuneration as may be prescribed.

Acts of the Commission not to be invalidated by infirmity or any vacancy, etc.

10. No act 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.

Removal of members from office

11. Any member of the Commission may be removed from office by an order of the Government, if she –

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which involves moral turpitude;
- (c) becomes of unsound mind;
- (d) is without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(e) in the opinion of the Government has so abused the position of Chairperson or member as to render that person's continuance in office detrimental to the public interest:

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

Appointment of Director and other staff of the Commission

12. (1) The Government may, in consultation with the Commission, appoint a Director for making investigations for the purpose of this Act and to carry out such directives given to him by the Commission besides the functions conferred on him by this Act. The Government may appoint such other staff as may be necessary to assist the Commission by deputation or by direct recruitment and prescribe their conditions of service. A Law Officer may essentially be appointed.

(2) The qualifications, terms of appointment and other conditions of service of the Director and other staff shall be such as may be prescribed.

(3) In the discharge of their functions under this Act, the Director and other staff referred to in sub-section (1) shall be subject to the administrative control of the Chairperson.

Registration of women's organisations

13. (1) The Commission may register voluntary women's organisations with the Commission for the purpose of enlisting the assistance of such organisations in the discharge of the functions of the Commission.

(2) Any women's organisation governed by written rules, regulations or bye-laws and working for the uplift, development, welfare or promotion of the interest of women or women's wing of any other organisation having all or any of the above activities as one of the objectives may apply to the Director for registration of such organisation with the Commission, in such form and in such manner as may be prescribed.

(3) The Director shall verify the applications in such manner as may be prescribed and recommend to the Commission, the organisations qualified for registration and reject the other applications.

(4) The Commission may consider the recommendations and direct that the name and particulars of the organisations qualified to be registered be entered in the register maintained for the purpose in the manner prescribed and shall issue a certificate of registration in the prescribed form.

(5) The Commission may at any time, either on its own motion or otherwise cancel the registration of any organisation after giving an opportunity to be heard and on being satisfied that it is no longer qualified to continue as a registered organisation.

(6) The party aggrieved by the decision of the Director under sub-section (3) may file an appeal before the Commission within such time and in such manner as may be prescribed and thereupon the Commission shall after conducting such enquiry as it deems fit and giving the party an opportunity of being heard, pass appropriate orders thereon.

Powers of the Commission

14. (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 in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any witness and examining him;
- (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;
- (d) issuing commissions for the examination of witnesses.

(2) Any proceeding before the Commission shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a court for the purpose of section 195 of the Code of Criminal Procedure, 1973.

Functions of the Commission

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

- (i) inquire into any unfair practice, take decision thereon and to recommend to the Government the action to be taken in that matter;
- (ii) cause investigations to be made by the Director on issues of importance concerning women and issues concerning unfair practices and to report thereon to the Government on the corrective measures to be taken;
- (iii) submit to the Government annual reports on —

(a) the lacunae, inadequacies or short-comings 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 the situation;

(b) the monitoring of the working of laws in force concerning women with a view to identifying areas where the enforcement of laws is not adequately effective or has not been streamlined and recommending executive or legislative measures to be taken;

(c) monitoring the recruitments and promotions made within the Union territory and scrutinizing the rules and regulations governing such recruitments and promotions with a view to reporting to the Government action, if any, required to guarantee equal opportunity to women in the matter of such recruitments and promotions;

(iv) (a) inspect or cause to be inspected, by the Director or any officer of the Commission authorised by the Commission in that behalf, prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise, or shelters for women or other places run by the Government for the purpose of offering rescue or shelter to women, or hostels intended for women or girls run by any person and such other places wherein unfair practice to 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 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 interest of women, 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 to women and devise a programme for implementing such scheme which shall be forwarded to the Government for approval and on obtaining approval thereof with or without modifications, implement the same;

(vii) empower the Director 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 statute;

(viii) maintain comprehensive data bank relating to the social, economic and political conditions of the 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 or for matters relating to the safeguarding of the dignity of women and the honor of motherhood;

(x) 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;

(xi) participate and advise on the planning process of socio-economic development of women;

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

(xiii) make periodical reports to the 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) 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 Union Territory Administrations and also the National Commission for Scheduled Castes and Scheduled Tribes, National Commission for Backward Classes and National Commission for Minorities;

(xvi) any other matter which may be referred to it by the Government.

(2) The Government shall cause all the recommendations or any part thereof, as may be presented to it by the Commission under sub-section (1) which relate to any matter with which the Government is concerned to be laid before the Legislative Assembly of Puducherry along with a Memorandum explaining the action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance, if any, of such recommendations.

Grants by Government

16. (1) The Government shall, after due appropriation made by the Legislative Assembly 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 purpose 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

17. (1) The Commission shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed, in consultation with the Accountant General, Puducherry and Tamil Nadu.

(2) The accounts of the Commission shall be audited by the Accountant-General, Puducherry and Tamil Nadu, 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, Puducherry and Tamil Nadu 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 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.

(4) The accounts of the Commission, as certified by the Accountant-General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government by the Commission.

Inquiry into unfair practices

18. (1) The Commission shall 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 organization;

(b) on its own knowledge or information;

(c) on any request from the Government.

(2) Where the complaint 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 an investigation to be made by the Director in such manner as it may deem fit, for the purpose of satisfying itself that the complaint requires to be inquired into.

(3) Where the person against whom the complaint has been made, appears and shows cause or fails to appear on the day appointed for that purpose, the Commission may proceed to inquire into the matter in the complaint and take a decision thereon and if the Commission finds that there is unfair practice it shall recommend to the Government the action to be taken thereon or initiate prosecution.

(4) The Government shall, within two 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.

Initiation of prosecution

19. If after investigation into any complaint under section 18, the Commission is satisfied that a person has committed any criminal offence and that he should be prosecuted in a court of law for such offence, then 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 then notwithstanding anything contained in any law, such sanction shall be granted by that authority within thirty days of the request by the Commission and if such sanction is not granted within the said period, such sanction shall be deemed to have been granted by that authority.

Annual report to be laid before the Legislative Assembly

20. The Annual Report submitted to the Government by the Commission in accordance with clause (iii) of sub-section (1) of section 15 shall be laid, before the Legislative Assembly, as soon as may be, after the report is received by the Government.

Sittings of the Commission

21. (1) The Commission shall hold sittings ordinarily at Puducherry to inquire into any unfair practice but it may hold sittings in any other region of the Union Territory or in Puducherry.

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

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

Authentication of orders, etc., of the Commission

22. All orders and decisions of all other proceedings or instruments, if any, issued by the Commission shall be authenticated by the signature of the Director or of such other officer as may be authorised by the Commission in this behalf.

Government consulting the Commission

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

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

24. 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 Indian Penal Code.

Protection of acts done in good faith

25. No suit, prosecution or other legal proceedings shall lie against any member of the Commission or any officer of the Commission for anything done in good faith or intended to be done under this Act or rule made thereunder.

Courts not to grant injunctions

26. Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, no court shall grant any injunction restraining any proceeding which is being or about to be taken under the provisions of this Act.

Removal of difficulties

27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions to remove such difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

(3) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly of Puducherry.

Power to make rules

28. (1) The Government may, by notification in the official gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for –

- (a) the remuneration payable to the members;
- (b) procedure for removal of the members of the Commission under section 11;
- (c) the procedure for registration under section 13 of the Act;
- (d) procedure for inquiries under section 18 of the Act;
- (e) investigations by the Director;
- (f) procedure for inspection of prisons, police stations, lock-ups, sub-jails, rescue homes or other places of custody where women are kept as prisoners or otherwise or shelters for women or other places run by the 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 such other places, wherein unfair practice to women or girls is complained of or for holding of enquiries about the treatment that women or girls are subjected to at such place;
- (g) maintaining a data bank;
- (h) the formulation of a comprehensive and affirmative scheme for securing equal opportunity to women and for improvement and uplift of women and programme for its implementation;
- (i) procedure for recommending prosecution in respect of offences committed against women under any statute;
- (j) any other matter which has 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 14 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, or 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.

STATEMENT OF OBJECTS AND REASONS FOR ACT NO.2 OF 2002

As early as in 1997, the National Commission for Women, New Delhi, had requested this Union Territory Administration to set up a State Commission for Women in the Union Territory for the purpose of helping the women and for redressed of their grievances in the Union Territory. To achieve the above, the draft legislation titled "The Puducherry Women's Commission Bill" has been prepared and for which the prior approval of the Government of India has been obtained for introduction in the Legislative Assembly. The Bill as such seeks to provide for the constitution of a Women's Commission to improve the status of women in the Union Territory to enquire into unfair practices affecting women and for matters connected therewith.

The Bill seeks to achieve the above objects.