

[BIHAR ACT 7, 1991]

BIHAR STATE MINORITIES COMMISSION ACT, 1991

विधि-विभाग

अधिसूचना संख्या एल. जी. 1-038/91-लेज 374 दिनांक 18 सितंबर, 1991

बिहार-राज्यपाल द्वारा 11 अगस्त, 1991 को प्रख्यापित बिहार राज्य अल्पसंख्यक आयोग अधिनियम, 1991 (बिहार अधिनियम संख्या 7, 1991) का निम्नलिखित अंग्रेजी अनुवाद बिहार-राज्यपाल के प्राधिकार से उसके द्वारा प्रकाशित किया जाता है, जिसे भारतीय संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अध्यादेश का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जायेगा :—

TO MAKE PROVISION FOR THE APPOINTMENT AND FUNCTION OF A COMMISSION FOR INVESTIGATING, ENSURING AND SAFEGUARDING OF RIGHTS CONFERRED UPON RELIGIOUS AND LINGUISTIC MINORITIES OF THE STATE BY THE CONSTITUTION OF INDIA AND OTHER CONNECTED MATTERS.

Be it enacted by the Legislature of the State of Bihar in the Forty-Second Year of the Republic of India, as follows :—

CHAPTER I

1. *Short title, extent and commencement*—(1) This Act may be called the Bihar State Minorities Commission Act, 1991.

(2) It shall extend to the whole of State of Bihar.

(3) It shall come into force at once.

2. *Definitions*—In this Act, unless the context otherwise requires—

(a) 'Commission' means the Bihar State Minorities Commission, as constituted under section 4 of the Act.

(b) 'Government' means Government of Bihar.

(c) 'Minorities' means the persons belonging to religious and linguistic minorities residing in the State of Bihar to whom the Government has recognised as minorities.

(d) 'Prescribed' means prescribed by rules made

under this Act.

(e) 'Public Servant' means such person falling under the following clauses, namely :—

(i) any such person appointed to a Public service or post in connection with the affairs of the State;

(ii) any such person who is in service or draws pay of the following :—

(a) any local authority in the State which is notified in the Official Gazette;

(b) any Board or Corporation established by or under the State Act and owned or controlled by the State Government.

(c) any society registered under the Co-operative Societies Act, 1912 or Societies Registration Act, 1860 which is under to the control of the State Government and notified by the State Government in this behalf in the Official Gazette.

(d) 'State' means the State of Bihar.

3. Headquarters of Commission—(1) The headquarters of the Commission shall be established at Patna.

(2) The Government may establish one or more offices of the Commission at any other place in the State.

4. Constitution of Commission—(1) The Government shall constitute a commission, called Bihar State Minorities Commission for the purposes of carrying out the objects of this Act.

(2) the commission shall consist of a Chairman, two Vice-Chairmen and maximum eight other Members who shall be nominated by the State Government.

5. Term of Commission—(1) The term of the nominated Chairman, Vice-Chairmen or Member of the Commission shall be for a term of three years from the date he assumes the charge of his office. Provided that—

(a) the Chairman, Vice-Chairman or any Member of the Commission may resign from his office by writing under his signature addressed to the

Government;

- (b) if at any time, it appears to the State Government that the Chairman, Vice-Chairman or any Member of the Commission is unfit to hold his office or has been found to be guilty of misconduct or neglect of duties or abuse of power, which renders his removal from office of the Commission, necessary in public interest, the State Government may by notification in the official gazette, remove him from such office.

6. *Functions of Commission*—(1) The functions of the Commission shall be as follows :—

- (a) to examine the working of various safeguards provided in the Constitution of India, and the law passed by the State Legislature for protection of minorities of the State;
- (b) to make recommendations with a view to ensuring effective implementation and enforcement of such safeguards and laws, as mentioned in sub-clause (a)
- (c) to undertake review of the implementation of policies and schemes of the State Government for the welfare of minorities of the State;
- (d) to conduct studies, researches and analysis and make recommendations for the socio-economic uplift of the minorities of the State;
- (e) to make such recommendations as may be deemed necessary and proper for ensuring protection of rights and interests of the minorities of the State;
- (f) to make recommendations for ensuring, maintaining and promoting communal harmony in the State;
- (g) to make periodical reports at prescribed intervals to the government.

(2) The Government may by notification in the official gazette, confer upon the Commission such additional functions in relation to the welfare and redress of grievances of the minorities of the State, as may be specified in the notification.

7. *Status and emoluments*—(1) The Government may from time to time, provide such status to the Chairman, Vice-Chairman or Members of the Commission and pay such salary, allowances and grant other facilities as may be prescribed.

8. *Power to investigate*—(1) The Commission shall have power to examine the following matters, brought before it either by a complaint by the aggrieved person or by any institution or brought to the notice of the Commission from any other reliable source—

- (a) violation of any right, safeguard provided to the minorities by the Constitution of India or by any law passed by the State Legislature;
- (b) encroachment upon any place of worship and graveyard belonging to the minority community;
- (c) such circumstances and causes which may create an atmosphere of hatred or conflict or tend to create such atmosphere appearing to create hatred or conflict between different communities; and
- (d) any other matter connected with the welfare, protection and safety of minorities of the State :

Provided that the Commission shall not investigate into any such matter which is pending before any court or Tribunal or Quasi judicial body.

9. *Procedure for investigation* —(1) If the Commission proposes to conduct an investigation under this Act, it may—

- (a) forward a copy of complaint or substance thereof to the concerned authority, department or public servant and call for a report or comments about the statements made in the complaint, within a specified time;
- (b) shall fix and organise meeting of the Commission or its Members at the concerned place, with the aggrieved persons or institutions or with persons concerned to discuss the issue complained.

(2) Excepting the above the procedure for conducting any investigation of any particular matter shall be such as may be prescribed by rules under this Act.

(3) The initiation of an investigation under this Act shall not prevent any public servant from taking any further action in the matter under investigation.

(4) For the purposes of conducting any investigation under this Act, the Commission may require any public servant or any other person, who in the opinion of the Commission, is able to furnish information or produce document, relevant to the investigation, to furnish any such information or produce copy of such document :

Provided that copy of such document shall not be furnished, the supply of which is detrimental to the interest of the State and in Public interest.

(5) The Commission shall have powers in respect of the following matters namely :—

- (a) Summon any person and examine him on oath. Non-compliance of direction of the Commission by such person, in matters of production of documents and in appearance in person, shall make him liable for disciplinary action by the Government on the recommendation of the Commission;
- (b) Requisition any public record or copy thereof from any office;
- (c) issue commission for the examination of witnesses or documents;
- (d) such other matters as may be specified.

(6) If the Government is of opinion that, the nature of the investigation to be made and other special circumstances of the case, all or any of the provisions of sub-section (2) or (3) (4) or (5) of Section 5 of the Commission of Enquiry Act, 1952 be made applicable to the Commission, the Government may, by notification in the official gazette, direct that all or any of the said provisions, as may be specified in the notification, shall apply to the Commission and on the issue of such notification said provisions shall apply accordingly.

10. *Power to utilise services of agencies*—The Commission may, for the purposes of conducting any investigation under this Act, utilise the services of any Officer or investigating agency of the State Government with the prior approval of the State Government.

11. *Statement made to the Commission*—No statement made by a person to the Commission in the course of giving evidence either before the Commission or before the officer or agency as provided in Section 10 shall be used against him in any civil or criminal proceeding and shall not be used against him in civil or criminal proceeding on the basis of such statement but for giving such false statement prosecution shall be started against him.

12. *Protection of action taken in good faith*—No suit, proceeding or other legal action shall lie against the Commission or Chairman, Vice-Chairman or any Member thereof or any person acting under the direction of the Commission, in respect of anything which is done in good faith or intended to be done in pursuance of this Act, by or under the authority of the Commission or any report, paper or proceedings of the Commission.

13. *Filling of vacancy or change in constitution of Commission*— (1) The Commission shall continue to function notwithstanding any vacancy caused by reason of resignation or otherwise of Chairman, Vice-Chairman or of any Member of the Commission.

(2) The Government may at any stage fill such vacancy in the Commission.

(3) If during the continuation of the Commission, a change has taken place in the constitution of the Commission by reason of any vacancy having been filled or by any other reason; it shall not affect any investigation, proceedings or action already taken by the Commission.

14. *Chairman etc. to be public servants*—The Chairman, Vice-Chairman and every Member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be public servant within the meaning

of Section 21 of the Indian Penal Code (45 of 1860).

15. *Procedure of Commission*—The Commission shall, subject to any procedure made in this behalf, have powers to regulate its own procedure, including the fixing of places and time of its meetings.

16. *Staff of the Commission*— (1) The secretary of the administrative department of the Government or any officer not below the rank of Deputy Secretary nominated by the Government shall be the *ex-officio* Member-Secretary of the Commission.

(2) The Government shall provide such other staff to the Commission, as may be required for the proper functioning of the Commission.

17. *Submission of Reports*— (1) The Commission shall present annually a consolidated report on the performance of its functions under this Act to the Government.

(2) The Commission may, at its discretion, submit from time to time special reports on any matter of public importance to the Government.

(3) On receipt of the annual report under sub-section (1) or a special report under sub-section (2), the Government shall lay a copy thereof, with an explanatory memorandum before each House of the State Legislature.

18. *Power to make rules*—(1) The Government may, by notification, in the official gazette, make rules for the purposes of carrying out the provisions, of this Act.

(2) In particular and without prejudice to the generality or the foregoing provisions, such rules may provide for—

- (a) to determine the status of Chairman and Vice-Chairman of Commission;
- (b) the salary, allowance and other emoluments payable to the Chairman, Vice-Chairman and Members of the Commission and other conditions of their service;
- (c) any other matter, which is to be or may be prescribed in pursuance of the provisions of the Act and that provision is in the opinion

of Government necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of State Legislature 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 sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall hereafter have effect only in such modified form, or be of no effect, as the case may be, without prejudice to the validity of anything previously done under that rule.

