

The Maharashtra State Minorities Commission Act, 2004

MAHARASHTRA

India

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Act 31 of 2005

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The Maharashtra State Minorities Commission Act, 2004 Maharashtra Act No. 31 of 2005 (First published after having received the assent of the Governor in the "Maharashtra Government Gazette" on the 8th August, 2005.) An Act to constitute a State Commission for Minorities and to provide for matters connected therewith or incidental thereto. Whereas the Maharashtra State Minorities Commission Bill, 2000 (L.A. Bill No. LXXVIII of 2000) introduced in the Maharashtra Legislative Assembly on the 30th November 2000 was referred to the Joint Committee of both Houses of the State Legislature on the 30th April 2002 and the same was pending with the Joint Committee: And Whereas the representatives of the minority communities had been constantly requesting the State Government to expedite conferral of long pending statutory status on the Minority Commission: And Whereas Both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law to constitute a State Commission for minorities for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra State Minorities Commission Ordinance, 2004 on the 24th August 2004; And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature with certain modifications; it is hereby enacted in the Fifty-fifth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, commencement and extent.

(1) This Act may be called the Maharashtra State Minorities Commission Act, 2004. (2) It shall be deemed to have come into force on the 24th August, 2004. (3) It shall extend to the whole of the State of Maharashtra.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Commission" means the Maharashtra State Minorities Commission constituted under section 3 of the Act;(b)"Government" means the Government of Maharashtra;(c)"Member" means a member of the Commission;(d)"Minorities" means the communities residing in the State of Maharashtra declared by the Government as minority communities, by order in the Official Gazette, from time to time;(e)"prescribed" means prescribed by rules made under this Act;(f)"Secretary" means the Secretary of the Commission.

Chapter II

State Commission for Minorities

3. Constitution of Commission.

(1)As soon as may be after commencement of this Act, the Government shall constitute a body to be called as the Maharashtra State Minorities Commission to exercise the powers conferred on, and to perform the functions assigned to the Commission, under this Act with its headquarter at Mumbai.(2)The Commission shall consist of,-(a)a Chairperson, Vice-Chairperson and nine other members to be nominated by the Government from amongst persons of eminence, ability and integrity:Provided that, all the Members including the Chairperson and the Vice-Chairperson shall be from amongst the minorities: and(b)the Secretary appointed by the Government shall be an officer not below the rank of Deputy Secretary to Government.

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

(1)Subject to the pleasure of the Government, the Chairperson, Vice-Chairperson and every Member of the Commission, shall hold office for a term of five years from the date he assumes office.(2)The Chairperson, Vice-Chairperson or a member may, resign from his office in writing under his signature addressed to the Government, but shall continue in office until his resignation is accepted.(3)The Chairperson, Vice-Chairperson and other Members shall receive such salary and allowances, as may be prescribed.(4)The salary and allowances payable to the Chairperson, Vice-Chairperson and other Members shall be defrayed out of the grants referred to in sub-section (2) of section 11.(5)A casual vacancy in the office of a member shall be filled up as soon as may be, by the Government and a Member so nominated shall hold office so long as the member in whose place he is nominated would have held office.(6)In the absence of the Chairperson, the Vice-Chairperson shall perform the functions of the Chairperson under the Act and rules made thereunder.

5. Disqualification.

(1)A person shall be disqualified for being appointed as and for being continued as the Chairperson, the Vice-Chairperson or a Member, as the case may be, if he-(a)is convicted and sentenced to

imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or(b)is of unsound mind and stands so declared by a competent court; or(c)is an undischarged insolvent; or(d)has been removed or dismissed from service of the Central Government or a State Government or a Body or Corporation owned or controlled by the Central Government or a State Government; or(e)refuses to act or becomes incapable of acting; or(f)is without obtaining leave of absence from the Commission, absents from three consecutive meetings of the Commission; or(g)has, in the opinion of the Government, so abused the position of the Chairperson, Vice-Chairperson or Member as to render that person's continuance in office as detrimental to the interests of the 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.(2)Any person who is disqualified under sub-section (1) shall be removed by the Government.

6. Secretary of Commission.

(1)The Secretary shall receive such salary and other allowances as the Government may determine from time to time.(2)The Government may grant from time to time, leave of absence to the Secretary.(3)The Secretary shall be the Chief Executive of the Commission and shall,-(a)operate the grants of the Commission;(b)cause to be maintained accounts of the Commission; and(c)discharge such other functions, which are conferred on him by or under this Act or any other law for the time being in force.

7. Staff of Commission.

(1)The Government shall provide such staff to the Commission, as may be required for the proper functioning of the Commission.(2)The administrative expenses of the Commission including the salaries, allowances and pensions payable to the Secretary and other officers and staff of the Commission shall be paid out of the grants referred to in sub-section (2) of section 11.

8. Meetings of Commission.

(1)The Commission shall meet as and when necessary at Mumbai or at other places, as the Chairperson may think fit:Provided that the Commission shall meet at least once in three months.(2)The Commission shall regulate its own procedure.(3)All the orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this behalf.

9. Vacancies etc. not to invalidate proceedings of Commission.

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

Chapter III

Functions of the Commission

10. 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 laws passed by the State Legislature, for the protection of minorities;(b)to make recommendations with a view to ensuring effective implementation and enforcement of all the safeguards;(c)to monitor the working of the safeguards provided in the Constitution, laws enacted by the Parliament and the State Legislature, and policies and schemes of the State Government for minorities;(d)to conduct studies, research and analysis on the questions of avoidance of discriminations against minorities;(e)to make a factual assessment of the representation of minorities in the services of the Government, Government undertakings, Quasi-Government bodies, Municipal Corporations, Municipal Councils, Zilla Parishads, Panchayat Samitis and Village Panchayats and in case, the representation is inadequate, to suggest ways and means to achieve the desired level;(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;(h)to study any other matter which, in the opinion of the Commission, is important from the point of view of the welfare and development of minorities, and to make appropriate recommendations;(i)to consider the grievances of the minorities and to suggest appropriate solution, from time to time;(j)to look into specific complaints regarding deprivation of rights and safeguards of minorities and take up such matters with the appropriate authorities;(k)to co-ordinate and supervise the implementation of the Prime Minister's 15 Points Programme for Welfare of Minorities:Provided that, if any matter specified in sub-section (1) is undertaken by the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992, the State Commission shall cease to have jurisdiction in such matters.(2)The Government shall cause the recommendations of the Commission to be laid before each House of the State Legislature along with the memorandum explaining the action taken or proposed to be taken on the recommendations and the reasons for non-acceptance, if any, of such recommendations.

10A. [Powers of Commission. - (1) The Commission shall, while performing any of its function under sub-section (1) of section 10 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, namely:-

(a)summoning and enforcing the attendance of any person from any part of the State 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 document or copy of such record or document from any office; and(e)issuing commissions for the examination of witnesses and documents.]

Chapter IV

Finance, Accounts and Audit

11. Budget of Commission and grants by Government.

(1)The Commission shall prepare every year before such date and in such form, as may be prescribed, a budget estimate of its income and expenditure for the financial year to commence on the first day of April next following and shall forward it to the Government.(2)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.(3)The Commission may spend such sums out of the grant 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 (2).

12. Accounts and audit.

(1)Accounts of the income and expenditure of the Commission shall be kept in accordance with such rules, as may be prescribed.(2)The Commission shall prepare an annual statement of accounts in such form as may, be prescribed.(3)The accounts of the Commission shall be audited annually by such auditor as the Government may appoint and by the office of the Comptroller and Auditor General of India.(4)The auditor shall for the purpose of the audit, have access to all the accounts and other records of the Commission.(5)The Commission shall pay out of the grant such charges for the audit as may be prescribed.(6)As soon as may be after the receipt of the report or the auditor, the Commission shall send a copy of the annual statement of accounts, together with a copy of the report of the auditor to the Government and shall cause to be published the annual statement of accounts in such manner as may be prescribed.(7)The Government may, after perusal of the report of the auditor, give such directions, as it thinks fit, to the Commission and the Commission shall comply with such directions.

13. 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.

14. Annual report and audit report to be laid before State Legislature.

(1)The Government shall cause, the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Government, and the reasons for the non acceptance, if any, of such recommendations and the audit report to be laid, as soon as may be, after the reports are received, before each House of the State Legislature.(2)The Commission may, at the direction of the Houses of the State Legislature, submit from time to time,

special reports on any matter of public importance to the Government.

Chapter V

Miscellaneous

15. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Commission or the Chairperson, Vice-Chairperson or any Member thereof or any person acting under the direction of the Commission. In respect of anything done in good faith or purported to have been done in pursuance of this Act or the rules made thereunder.

16. Chairperson, Vice-Chairperson, Members and staff of Commission to be public servant.

- The Chairperson, Vice-Chairperson, Members of the Commission and every officer and employee appointed or authorised by the Commission to exercise the functions under this Act shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code.

17. Power to make rules.

(1) The Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for the purposes of giving effect to the provisions of this Act. (2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of 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 in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision in the Official Gazette, 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 or omitted to be done under that rule.

18. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty: Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of State Legislature.

19. Repeal of Maharashtra Ordinance XXIX of 2004 and saving.

(1)The Maharashtra State Minorities Commission Ordinance, 2004 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under this Act.[Section 10A was inserted by Maharashtra 21 of 2012, Section 2 (w.e.f. 14-8-2012)]