

The Goa, Daman And Diu Judicial Commissioner's Court (Declaration As High Court) Act, 1964

DAMAN AND DIU

India

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Act 16 of 1964

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1316.

Under the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1961, a Court of Judicial Commissioner has been constituted for the Union territory of Goa, Daman and Diu. It is the highest Court of Appeal replacing the existing Court of Appeal (Tribunal de Relacao) in that territory. Article 241(1) of the Constitution provides that Parliament may by law declare any Court in a Union territory to be a High Court for all or any of the purposes of the Constitution. In the absence of such a declaration, the Judicial Commissioner's Court will not be competent to exercise the powers of a High Court and no appeal will lie to the Supreme Court. The Bill accordingly seeks to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes and to apply thereto provisions of Chapter V of Part VI of the Constitution with certain exceptions and modifications. 2. Provision also been made for appeals to the Supreme Court against judgments, decrees and orders of the Tribunal de Relacao: (a) passed before 20th December, 1961, in respect of which appeals lay to the superior Courts in Portugal, and (b) passed on or after 20th December, 1961, in respect of which appeals could not be preferred in the absence of necessary provisions. 3. Constitution of the Judicial Commissioner's Court has rendered superfluous the provisions of section 7 of the Goa, Daman and Diu (Administration) Act, 1962, enabling the Central Government to extend the jurisdiction of the High Court at Bombay to the Union territory of Goa, Daman and Diu. Section 7 of the said Act is, therefore, being repealed. -- Gazette of India, 28-12-1963, Pt. II, Section 2, Extra, p. 1016. [16th May, 1964] An act to declare the Judicial Commissioner's Court For Goa, Daman and Diu to a High Court for certain purpose of the Constitution. Be it enacted by Parliament in the Fifteenth Year of the Republic of India as follows: -

1. Short title and commencement.

(1) This Act may be called the Goa, Daman and Diu Judicial Commissioner's Court (Declaration as High Court), Act, 1964. (2) It shall be deemed to have come into force on the date of commencement of the Goa, Daman and Diu (Judicial Commissioner's Court) [Regulation] [The said Regulation came into force on 16-12-1963. See Gazette of India, 16-12-1963. Pt. II, Section 8(1), Extra, p. 867], 1963.

2. Definition.

In this Act, " article " means an article of the Constitution.

3. Declaration of Goa, Daman and Diu Judicial Commissioner's Court as High Court for certain purposes.

The Court of the Judicial Commissioner for the Union territory of Goa, Daman and Diu (hereinafter referred to, as the Judicial Commissioner's Court) is hereby declared to be a High Court for the purposes of articles 132, 133 and 134.

4. Appeals to the Supreme Court not to be barred on account of judgement etc.

, being of a single Judge. An appeal shall lie to the Supreme Court under the provisions of article 133 from any judgment, decree or final order of, the Judicial Commissioner's Court notwithstanding that such judgment, decree or final order is that of a single Judge.

5. Appeals to Supreme Court from judgment, decree, etc.

, passed or made Judicial Commissioner's court. Subject to any rules made under article 145 or any other law as to the time within which appeals to the Supreme Court are to be entered, an appeal shall lie to that Court from a judgment, decree or final order of the Judicial Commissioner's Court, under the provisions of article 132 or article 133, or from a judgment, final order or sentence of such Court under the provisions of article 134: Provided that an appeal may be preferred within ninety days from the date of passing of this Act from a judgment, decree, final order or sentence passed or made by the Judicial Commissioner's Court before that date.

6. Exceptions and modifications subject to which the provisions of Chapter V of Part VI of the Constitution apply to the Judicial Commissioner's court.

The provisions of Chapter V of Part VI of the Constitution shall in their application to the Judicial Commissioner's Court have effect subject to the following exceptions and modifications, namely:

-(a) the provisions of articles 216, 217, 218, 220, 221, 222, 223, 224, 224A, 225, 230 and 231 shall not

apply;(b)references-(i)in article 219, in the proviso to clause (3) of article 227 and in article 229 to the Governor shall be construed as references to the administrator of the Union territory of Goa, Daman and Diu;(ii)in articles 219 and 229 to the State (except in the expression " the State Public Service Commission ") shall be construed as references to the Union territory of Goa, Daman and Diu;(c)the reference to the State Public Service Commission in the proviso to clause (1) of article 229 shall be construed as a reference to the Union Public Service Commission.

7. Appeals to lie to the Supreme Court from judgment, decree, etc., passed or made by Tribunal de Relacao.

Any person aggrieved-(a)by any judgment, decree, order or sentence of the Tribunal de Relacao passed or made before the 20th December, 1961, against which an appeal would lie to a superior court in Portugal in accordance with law but could not be preferred by reason of Goa, Daman and Diu becoming part of the territory of India, or against which an appeal having been preferred to a superior court in Portugal in accordance with law had not been disposed of before the said date ; or(b)by any judgment, decree, order or sentence of the Tribunal de Relacao passed or made on or after the 20th December, 1961, may, within ninety days from the date of passing of this Act, prefer an appeal from such judgment, decree, order or sentence to the Supreme Court as if such judgment, decree, order or sentence had been passed or made by the Judicial Commissioner's Court.

8. Repeal of section 7 of Act 1 of 1962.

Section 7 of the Goa, Daman and Diu (Administration) Act, 1962 is hereby repealed.