

Bihar Commission for Protection of Child Right Rules, 2010

BIHAR

India

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Rule

BIHAR-COMMISSION-FOR-PROTECTION-OF-CHILD-RIGHT-RULES-2010 of 2010

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Bihar Commission for Protection of Child Right Rules, 2010 Published vide Notification S.O.181, dated 16th August, 2010 in Bihar Gazette (Extraordinary) No. 605, dated 19 August, 2010 S.O.181, dated the 19th August, 2010. - In exercise of the power conferred by Section 36 of the Commission for protection of Child Rights Act, 2005 (4 of 2006) the State Government of Bihar makes the following Rules, namely:-

1. Short title, extent and commencement.

(1) These Rules may be called the Bihar Commission for Protection of Child Rights Rules, 2010. (2) It shall extend to the whole of the State of Bihar. (3) It shall come into force on the date of its publication in the Official Gazette.

2. Definition.

- In these Rules, unless the context otherwise requires:- (1) "Act" means the Commission for Protection of Child Right Act, 2005 (4 of 2006). (2) "Child" means a person who has not completed the age of 18 years. (3) "Commission" means the Bihar Commission for Protection of Child Rights constituted under Section 17 of the Act. (4) "Chairperson" means the chairperson of the State Commission. (5) "Child Rights" means rights of the children adopted in the United Nations convention on the Rights of the Child, 1989 as ratified by the Government of India on the 11th December, 1992. (6) "Member" means the Members of the State Commission and includes the Chairperson. (7) "Secretary" means the Secretary to the Commission. (8) "Section" means a section of the Act. (9) Words and expression used and not defined in these Rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Eligibility for appointment as Chairperson and other members.

(1)The Commission shall consist of the following members, namely:-(a)A Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children and;(b)Six Members, out of which at least two shall be women, to be appointed by the State Government from amongst persons of eminence, ability, integrity, standing and experience, from the following fields;(I)Education;(II)Child health, care, welfare, child development,(III)Juvenile justice or care of neglected or marginalized children or children with disabilities;(IV)Elimination of child labour or children in distress;(V)Child psychology or sociology, and(VI)Laws relating to children.(2)No person having any past record of violation of human rights or child rights shall be eligible for appointment as Chairperson or other members of the Commission.

4. Appointment of Chairperson and Members.

(1)The State Government shall, by notification, appoint the Chairperson and other Members.(2)The Chairperson and members shall be appointed on the recommendation of a three member Selection Committee constituted by the State Government under the Chairmanship of the Minister-in-charge of the Social Welfare Department.

5. Terms of office of the Chairperson and other members.

(1)The chairperson shall, unless removed from office under Section 7, hold office for a period not exceeding three years or till the age of 65 years, whichever is earlier.(2)Every member shall, unless removed from office under section 7, hold office for a period not exceeding three years, or till the age of 60 years, whichever is earlier.(3)Notwithstanding any thing contained in sub-rule (1) or sub-rule (2)(i)A person who has held the office of chairperson shall be eligible for renomination and(ii)A person who has held the office of a member shall be eligible for recombination and(iii)Provided that a person who has held and office of Chairperson or member for two terms in any capacity shall not be eligible for renomination as chairperson or, as the case may be, as member.(4)If the chairperson is unable to discharge his functions owing to illness or other incapacity, the State Government shall nominate any other member to act as chairperson and the member so nominated shall hold office of Chairperson until the Chairperson resumes office or till the remainder of his term.(5)The Chairperson or a member may, by writing under his hand, addressed to the State Government resign his office at any time.(6)A vacancy caused by death, resignation or any other reason shall be filled up within ninety days from the date of occurrence of such vacancy by fresh appointment in accordance with the provision of Section 18 and a person so appointed shall hold office for the remainder of the term of office for which the appointment has been made.

6. Removal from Office.

(1)The Chairperson may be removed from his office by an order of the State Government on the ground of proved misbehaviour or incapacity.(2)The State Government may be order remove from office, Chairperson or any other Member, if the Chairperson or, as the case may be, such other

Member-(I)Is adjudged an insolvent; or(II)Engages during his term of office in any paid employment outside the duties of his office; or(III)Refuses to act or becomes incapable of acting; or(IV)Is of unsound mind and stands so declared by a competent court; or(V)Has so abused his office as to render his continuance in office detrimental to the public interest; or(VI)Is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude; or(VII)Is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.(3)No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.(4)If the Chairperson or, as the case may be, a Member, becomes subject to any of the disqualifications mentioned in Rule 6 (1) & (2) or tenders his resignation under sub-section (2) of Section 19 of the Act, his seat shall thereupon become vacant.

7. Validity of Proceeding during vacancy, etc.

(1)No act or proceeding of the Commission shall be invalid merely by reason of(a)Any vacancy in, or any defect in the constitution of the Commission; or(b)Any defect in the appointment of a person as chairperson or a Member;(c)Any irregularity in the procedure of the Commission not affecting the merits of the case.

8. Salaries and allowances of the Members of the Commission.

(1)Save as otherwise provided in Section 20 of the Act, the Chairperson shall be paid salary equivalent to the salary of the Chief Secretary to the State Government and every other member shall be paid salary equivalent to that of a secretary to the State Government. Provided that where the Chairperson that where the chairperson or any other member is a retired government servant, semi-government body, public sector undertaking or recognized research institution benefits or both received by him shall be exceed to the last pay drawn.(2)If the Chairperson or a Member is in service of the State Government, his salary shall be regulated in accordance with the rules applicable to him.(3)Dearness allowance: The Chairperson and every other Member shall receive Dearness Allowance appropriate to their pay at the rates admissible to officers of the equivalent rank of the State Government.(4)Compensatory (city) allowance: The Chairperson and every other member shall receive Compensatory city allowance appropriate to their pay at the rates admissible to officers of the equivalent rank of the State Government.(5)Leave:The Chairperson and every other member shall be entitled to leave as follows;(a)Earned leave, half-pay leave and commuted leave at the rates admissible to officers of the equivalent rank of the State Government.(b)Extraordinary leave at the rates admissible to officers of the equivalent rank of the State Government(6)Leave sanctioning authority :-(a)The State Government shall be the authority competent to sanction leave to the chairperson.(b)The chairperson shall be authority to sanction leave to every member and the Secretary.(c)The Secretary shall be the authority to sanction leave to any officer or any other employee of the Commission(7)Travelling Allowance:-(a)The Chairperson and every other member shall be entitled to draw travelling allowances and daily allowances at the rates admissible to draw travelling allowance and daily allowances at the rates admissible to officers of the equivalent rank of the State Government(b)The Chairperson and every other member shall be his own controlling officer in respect of his bills relating to travelling allowances and daily allowances.

9. Residential accommodation.

- The Chairperson and every other member shall be entitled to house rent allowance as may be determined by the State Government

10. Facility for conveyance.

- The Chairperson and every other member shall be entitled to the facilities of conveyance for journeys for official and private purpose as prescribed by the State Government from time to time

11. Facility for medical treatment.

- The Chairperson and every other member shall be entitled to medical treatment and hospital facilities as applicable to the State Government servants of equivalent rank or as may be determined by the State Government.

12. Residual Provision.

- The conditions of the service of the Chairperson and the other Members for which no express provisions has been made in these rules shall be such as may be determined by the State Government

13. Functions of the Commission.

- The Commission shall perform all or any of the functions assigned to it under clauses from (a) to (k) of sub-section (1) of Section 13, Sections 14 & 15 of the Act namely-(1)Analyze existing law, policy and practice to assess compliance with Convention or Rights of the child.(2)Undertake inquiries and produce reports on any aspects of policy or practice affecting children and comment on proposed new legislation from a child rights perspective.(3)Present to the State Government annually and at such other intervals as the Commission may deem fit, reports upon the working of safeguards related to protection of the rights of children.(4)Co-ordinate and develop interface with the National Commission for the Protection of Child Rights.(5)The Commission shall not undertake or inquire into an issue which is already under consideration of the National Commission for the Protection of Child Rights or any other Commission duly constituted under any law for the time being in force.(6)Undertake formal investigations where concern has been expressed either by children themselves or by concerned person on their behalf.(7)The Commission while inquiring into the complaints of violations of child rights may call for information or report from the state government or any other authority or organization subordinate thereto within such time as any be specified by it:(a)If the information or report is not received within the time stipulated by the commission, it may proceed to inquire into the complaint in its own;(b)If, on receipt of information or report, the Commission is satisfied either that taken by the concerned government or authority, it may not proceed with the complaint and inform the complainant accordingly.(8)Ensure that the work of the commission is directly informed by the views of children in order to reflect their priorities and

perspectives. Suggestion boxes or such other methods may be functional to collect the views of the children.(9)Promote, respect and give serious consideration of the views of children in its work and in that of all government departments and organizations dealing with child(10)Compile and analyze data on children.The commission may undertake special data collection and compilation programs by associating experts and research institutions, if the Commission feel that enough data is not available on any particular subject.(11)Produce and disseminate information about child rights, including a website of its own.(12)Promote the incorporation of child rights into the school curriculum, teacher's training, Police and government officials and training of other personnel dealing with children.

14. Procedure of transaction of business.

(1)The Commission shall meet regularly at its office at Patna at such time as the chairperson thinks fit, but three months shall not intervene between its last meeting and the next meeting.(2)The Commission shall hold its meetings in its office but may, in its discretion, hold its meetings at any other place in the State if it considers it necessary or expedient to do so, by the chairperson or any of its individual member.(3)The agenda papers shall ordinarily be circulated to members at least two clear working days advance of the meeting, except in cases when urgent attention is required.(4)Four members including the chairperson shall form the quorum at every meeting of the Commission.(5)All decisions of the Commission at its meetings shall be taken by majority. Provided that in the case of equality of votes, the chairperson or in his absence the person presiding shall be entitled to exercise a second or a casting vote.(6)If for any reason the Chairperson is unable to attend the meeting of the Commission, any member chosen by the members present from amongst themselves at the meeting shall preside.

15. Minutes of the meeting.

(1)The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer of the Commission as directed.(2)The draft minutes of the meeting of the Commission shall be submitted to the chairperson for approval and upon approval, be circulated to all members of the Commission at the earliest and in any case, sufficiently before the commencement of the next meeting(3)The conclusion of the Commission in every matter undertaken by it shall be recorded in the form of a record. Action shall be taken on the basis of majority opinion where there is any difference of opinion.(4)All orders and decisions of the Commission duly authorized by the Secretary with the prior approval of the Chairperson in this behalf.(5)Unless specifically authorized, no action shall be taken by the secretariat of the commission on the minutes of the meetings until the chairperson confirms the same.(6)A master copy of the record of all meetings and opinions of the Commission shall be maintained duly authenticated by Secretary.(7)A copy of the minutes pertaining to each item shall be kept in the respective files for appropriate action. Opinions shall be kept in respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

16. Report of action taken.

- Report of the follow up action shall be submitted by the Secretary to the Commission at every subsequent meeting, indicating therein the present stage of action taken on each item on which the Commission had taken any decision in any of its earlier meetings excepting the items on which on further action is called for.

17. Transaction of business outside headquarters.

- The Commission or some members may transact business at places outside its head quarters as and when previously approved by the Chairperson, provided that if parties are to be heard in connection with any inquiry under the Act at least two members shall constitute the bench of the Commission for such purposes.

18. Secretary.

- The State Government shall, by notification, appoint an officer not below the rank of the Secretary to the State Government as the Secretary of the State Commission and shall make available to the State Commission such other officer and employees as may be necessary for the efficient performance of its function.

19. Powers and duties of the Secretary.

- The Secretary shall:-(1)Have the power to execute all decisions taken by the Commission in order to carry out the powers ad functions of the Commission as provided in Sections 13, 14, 15 and 23 of the Act, read with the Section 24.(2)Exercise and discharge such powers and perform such duties as are required for the proper administration of the affairs of the Commission and its day to day management as specified in sub-section (2) of the Section 21.(3)Convene the meetings of the Commission in consultation with its chairperson and serve notices of the meetings to all concerned.(4)Invite Special Rapporteur or co-opted members in the Commission meeting in consultation with its Chairperson.(5)Take steps to ensure the quorum required for convening a meeting of the Commission is secured.(6)Prepare in consultant with the Chairperson the agenda for each meetings of the Commission and have notes prepared by the Secretariat and such notes shall as far as possible be self contained.(7)Make available specific records covering the agenda items to the Commission for reference.(8)Ensure that the agenda papers are circulated to the members at least two clear working days in advance of the meeting; except in cases when urgent attention is required.(9)Prepare the minutes of the meetings of the Commission and shall execute the decisions of the Commission taken in the meetings and shall also ensure placing of the action taken reports of the decisions of the Commission before the Commission in its subsequent meetings. Such measures may be taken to ensure accessibility of agenda items, notes, reports, minutes of the meetings, action taken reports, etc. to the persons with disability (e.g visually challenged or hearing impaired, etc.) and children in general, if so required.(10)Ensure that the procedure of the Commission is followed by it, in transaction of its business.(11)Take up all such matters with the Department of Social

Welfare for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit reports in the Legislature, re-appointment of funds, residential accommodation, permitting any officer of the Commission for deputation abroad and any other matter requiring approval of the state Government.(12)Exercise such financial powers as are delegated to him by the Chairperson on behalf of the Commission provided that no expenditure on an exceeding one lakh rupees shall be incurred without the approval of the Chairperson.(13)Be the appointing and disciplinary authority in respect of officers and other employees of the Commission.(14)The secretary along with such officers as the Chairperson may direct shall attend the meetings of the Commission.(15)The secretary shall in consultation with the Chairperson prepare the agenda for each meeting of the Commission and shall have notes prepare by the Secretariat and such notes shall as far as possible be self contained. The records covering the agenda items shall be made readily available to the Commission for its reference.(16)The salary 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 determined by the state Government from time to time.

20. Panel of consultants.

(1)The Commission may constitute a panel of consultants for assisting the commission in wide range of tasks such as investigation or inquiry, to serve on task forces or committees and for research and analysis.(2)The commission may draw on experts from academic, research, administrative, investigative, legal or civil society groups to form the panel.(3)The Commission may devise a transparent process for empanelling these consultants so that they are available for quick delegation tasks.

21. Annual report.

(1)The Commission shall prepare and publish an annual report before the 31st December every year for submission to the State Government.(2)The Commission shall prepare special reports on specific issues as and when necessary under the direction of the Chairperson.(3)The State Government shall cause the annual reports and the special reports of the Commission to be laid before each house of Legislature, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reason for non acceptance of the recommendations if any with in a period of one year from the date of receipt of such report.(4)The annual report shall include information of administrative and financial matters, complaints investigated or inquired into, action taken on cases, details of research, reviews, education and promotion efforts, consultation details and specific recommendations of the Commission on any matter besides any other matter that the Commission may consider warranting inclusion in the report.(5)In case the Commission considers that there could be a time lag for the preparation of the annual report it may prepare and submit a special report to the State Government.(6)In forms in which the budget may be prepared and provided and forwarded to the State Government shall be as provided in form I, II, III and IV of Schedule I of these rules.(7)The estimated receipts and expenditure shall be accompanied by the revised budget estimated for the relevant financial year.(8)The budget shall as far as possible be based on the account heads specified in schedule II of these Rules.

22. Financial powers.

(1)The Commission shall spend the sums of money received by it as grant from the State Government for the purpose of the Act.(2)The Chairperson shall have all powers relating to financial transaction of the Commission except in cases which requires prior approval of the State Government.(3)The Chairperson shall obtain prior approval of the State Government in matters of appointment, creation of posts, revision of pay-scales, arrangement of vehicles, re-appropriation of funds from on sub head to another, permitting any officer of the Commission to participate in seminars, conferences or training programmes abroad or in other states and such other matters determined by the State Government by order.(4)The Chairperson shall, subject to such conditions, limitation, control, and supervision, have powers to delegate his financial powers to any member or the Secretary. Provided that no such powers shall be delegated in respect of incurring and expenditure on item exceeding one lakh rupees without the prior approval of the State Government.(5)The Chairperson shall have powers to engage any person or persons as consultant or consultants for a specific purpose and for a specific period on the terms and conditions agreed in advance relating to honorarium, leave, travelling allowances dearness allowance, medical allowance and such expenditures to be incurred while performing the assigned task.(6)The Secretary shall have powers to execute all decisions taken by the Chairperson or any other member on his behalf relating to financial matters(7)All financial powers of the Commission shall be governed by the State Financial (Amended) Rules, 2005 and other rules and instructions issued by the Department of Finance of the State Government from time to time.

23. Accounts and audit of the Commission.

(1)The commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in prescribed forms by the State Government in consultation with the Auditor-General of Bihar, Patna.(2)The accounts of the commission shall be audited by the Auditor-General of Bihar 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 Auditor-General of Bihar.(3)The Auditor-General of Bihar or any person appointed by him in connection with the audit of the accounts of the Commission under the Act shall, have the same rights and privileges and the authority in connection with such 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 the offices of the Commission.(4)The accounts of the Commission as certified by the Auditor-General of Bihar 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 and the Government shall cause the audit report to be laid as soon as possible, after it is received, before the State Legislature.

Schedule 1

Form IThe Bihar Commission for Protection of Child RightsDetailed Budget Estimates for the Year 200See Rule (.....)Administration(Expenditure){||-| Head of Accounts| Actual for the past three

year| Sanctioned estimate for the current year 200....| Actual of last six months i.e. 200....| Actual of last six months current year 20....| Revised estimate for the current year 20...| Budget estimate for the next year 20....| Variations between columns 5 & 8| Variations between columns 8 & 9| Explanation for columns 10 & 11|-| 1| 2| 3| 4| 5| 6| 7| 8| 9| 10| 11| 12|-|}Form IIThe Bihar Commission for Protection of Child RightsStatement details of Provision for pay of Officers/Establishment for the year 20.....20.....See Rule (.....)Establishment

| Name and Designation | Reference to page of estimate form | sanction pay of the post | Amount of provisions for the year at the rate inColumn 3 (C) | Increment falling due within the year | Total provision for the year i.e. total columns 4& 5 | Remarks |
|--|------------------------------------|--------------------------|--|---------------------------------------|--|---------|
| Minimum/Maximum Actual pay of the personconcerned due on 1st April next year | Date of increment | Rate of increment | Amount of increment for the year | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | | a | b | c | | a b c |

Form IIIThe Bihar Commission for Protection of Child RightsSee Rule (.....)Normal Rolls

| Name and Designation | Pay | Dearness Allowance | Compensatory (City) Allowance | House rent Allowance | Overtime allowance | Children educational allowance | Leave travel concession | Other allowance | Tot |
|----------------------|-----|--------------------|-------------------------------|----------------------|--------------------|--------------------------------|-------------------------|-----------------|-----|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |

Total

Form IVThe Bihar Commission for Protection of Child RightsAbstract of Nominal Rolls)See Rule (.....)

| Actual sanctioned strength as on 1st March200.... | Particulars of Posts | Sanctioned budget grant 200... 200... | Revised Estimates 200... 200... | Budget Estimates 200... 200... | Explanation for the difference between sanctionedbudget, revised estimates and budget estimate |
|---|----------------------|---------------------------------------|---------------------------------|--------------------------------|--|
| No. of posts included | Pay and allowances | No. of posts included | Pay and allowances | No. of posts | Pay and allowances |

| | | | | included | | |
|---|-----------------------|---|---|----------|---|-------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 8 9 |
| | I. Officer(a) | | | | | |
| | Postsfilled(b) Posts | | | | | |
| | vacant total 1 | | | | | |
| | officersII | | | | | |
| | Establishment(a) | | | | | |
| | Postsfilled(b) Posts | | | | | |
| | vacant total II | | | | | |
| | EstablishmentIII | | | | | |
| | Class IV(a) Posts | | | | | |
| | filled(b) Postsvacant | | | | | |
| | total III Class IV | | | | | |

Grand Total(I,
II and III)

II

Budget and Account HeadsAdministrationHeads of Accounts (Expenditure)

1. Salaries

2. Wages travel expenses

3. Office expenses

a. Furnitureb. Postagec. Office machines equipmentd. Liveriese. Hot and cold weather chargesf. Telephonesg. Electricity and water chargesh. Stationeryi. Printingj. Staff car and other vehiclesk. Other items

4. Fee and honoraria

5. Payment for professional and special services

6. Rents, rates and taxes/royalty

7. Publications

8. Advertising sales and publicity expenses grant in aid/contribution/subsidies

9. Hospitality expense sumptuary allowances etc.

10. Pensions/gratuities

11. Write off/losses

12. Suspense

13. Other charges (a residuary head, this will also include rewards and prizes)

Heads of accounts (receipts)

1. Payments by the state government

2. Other receipts