

The Punjab State Commission for Scheduled Castes Act, 2004

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Act 5 of 2004

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The Punjab State Commission for Scheduled Castes Act, 2004(Punjab Act No. 5 of 2004)Last Updated 19th March, 2020Statement of Objects and Reasons. - Ours is a democratic and welfare set up. As enjoined by the Constitution of India, the State is committed to the welfare and development of the weaker sections of the people and, in particular, of the Scheduled Castes and to protect them from social injustice and all forms of exploitation. To add one step further to this noble object, the Punjab State Commission for Scheduled Castes is proposed to be constituted by the Punjab State Government with a view to protecting and safeguarding the interests of the members of the Scheduled Castes in the State of Punjab, to recommend remedial measures for their welfare and development and for the matters connected therewith or incidental thereto. It is proposed that the Punjab State Commission for Scheduled Castes to get justice without going through the lengthy procedure of civil courts. It will certainly improve the status of the members of the Scheduled Castes in the State of Punjab. Published by Punjab Government Gazette (Extraordinary), dated March 16, 2004, Page 399. Statement of Objects and Reasons - Punjab Act 1 of 2006. - The Punjab State Commission for Scheduled Castes Act, 2004 was enacted in April, 2004. Section 3(2)(F) of the Act lays down the condition for appointment of Member-Secretary of the Commission. Undoubtedly, any retired and serving IAS or PCS officer belonging to Scheduled Castes not below the rank of Additional Secretary would be more result-oriented and officious to deal with the matters relating to grievances of the Scheduled Castes in the State. Hence, there is necessity of amendment of Section 3(2)(F) of the Act as proposed in the Bill.2. Section 4(1) of the Act prescribes the term of the office and conditions of the Chairperson and Member of the Commission. The term of Chairperson and non-official members has been fixed for a period of three years or till he attains the age of 65 years. Such a cap on term as well as the age of Chairperson limits the choice of the Government for making suitable person to hold the office of Chairperson of the Commission.3. The Punjab State has the highest %age of Scheduled Castes population (28.31%) in the country as per census 2001. The Commission has since been assigned the powers and functions in regard to investigate all matters relating to safeguard the interests of the scheduled castes under the Constitution of India or under any other law besides making recommendations to effect implementation of such safeguard and

other measures for the protection, welfare and socio economic development of the scheduled castes. All these matters necessitate to have a seasoned and well experienced persons as Chairperson and non-official members of the Commission. Therefore, keeping any cap on term of the Chairperson restricts the choice of the Government to appoint a suitable persons as Chairperson of the Commission.4. Section 24 of the Protection of Human Rights Act, 1993 also empowers the State Government to appoint Chairperson of that Commission who can hold the office up to the age of 70 years.5. Hence, these amendments in the Act ibid are essentially required. Published by Punjab Government Gazette (Extraordinary), dated September 15, 2006, Page 1829.No.

14-Legislative/2004. - The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 27th March, 2004, and is hereby published for general information. An Act to provide for the constitution of the Commission for Scheduled Castes in the State of Punjab with a view to protecting and safeguarding the interests of the members of the Scheduled Castes in the State of Punjab, to recommend remedial measures for their welfare and development and for the matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Punjab in the Fifty-fifth Year of the Republic of India as follows :-

1. Short title and commencement.

(1) This Act may be called the Punjab State Commission for Scheduled Castes Act, 2004. (2) It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Chairperson" means the Chairperson of the Commission; (b) "Commission" means the Punjab State Commission for Scheduled Castes constituted under section 3; (c) "Government" means the Government of the State of Punjab in the Department of Welfare of Scheduled Castes and Backward Classes; (d) "Member" means a member of the Commission and includes the Chairperson and the Member-Secretary; (e) "prescribed" means prescribed by rules made under this Act; (f) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 of the Constitution of India to be Scheduled Castes; and (g) "section" means section of this Act.

3. Constitution of the Commission.

(1) The Government shall, by notification in the official Gazette, constitute a body to be known as "the Punjab State Commission for Scheduled Castes" to exercise the powers conferred on and to perform the functions assigned to it under this Act. (2) The Commission shall consist of, -(a) a Chairperson, who shall be an eminent person belonging to Scheduled Castes or a retired officer of the Government of the State of Punjab belonging to the Scheduled Castes not below the rank of Principal Secretary, to be appointed by the Government; (b) not more than three non-official members from amongst the members of the Scheduled Castes, who may be appointed by the Government from amongst the persons of liability, integrity and standing, who have served for the welfare and uplift of the Scheduled Castes : Provided that out of the three members, one shall be a woman; (c) the Director General of Police, Punjab, shall be the ex-officio member; (d) the Director,

Local Government, Punjab, shall be the ex-officio member; (e) the Director, Welfare of Scheduled Castes and Backward Classes, Punjab, shall be the ex-officio member; and (f) [one Member-Secretary, to be appointed by the Government from amongst the retired or serving officers of Indian Administrative Service or the Punjab Civil Service belonging to Scheduled Castes, not below the rank of an Additional Secretary.] [Substituted by Punjab Act No. 19 of 2006.]

4. Term of office and conditions of service of Chairperson and members.

- [(1) The Chairperson and non-official members shall hold office for a period of six years: Provided that where the Chairperson attains the age of [seventy-two years] [Substituted by Punjab Act No. 19 of 2006.] before the expiry of the aforesaid terms of six years, he shall vacate his office on the day, on which he attains such age.] (2) The Chairperson and non-official members may, at any time, by writing and addressed to the Government, resign from the office of the Chairperson or of the office of the member, as the case may be. (3) Notwithstanding anything contained in sub-section (1), the Government may, remove a person from the office of the Chairperson or member if, that person - (a) becomes an undischarged insolvent; (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Government involves moral turpitude; (c) becomes of unsound mind and stands so declared by a competent court; (d) refuses to act or becomes incapable of acting; (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; and (f) in the opinion of the Government, has so abused the position of the Chairperson or member as to render that person's continuance in office detrimental to the public interest or is otherwise unfit or unsuitable to continue as such Chairperson or member; 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. (4) A vacancy caused under sub-section (2) or sub-section (3) or in any other manner, shall be filled in, as soon as may be, by a fresh appointment by the Government; and the person so appointed, shall hold office for the remainder of the term of office of the person in whose vacancy such person has been appointed, would have held office, if the vacancy had not occurred: Provided that, if the vacancy of a member other than that of the Chairperson occurs within six months preceding the date on which the term of office of the member expires, then such a vacancy shall not be filled in. (5) The salary and allowances payable to, and the other terms and conditions of holding the office of the Chairperson and the members shall be such, as may be prescribed.

5. Officers and other employees of the Commission.

(1) The Government shall provide the Commission with such officers and employees, as in the opinion of the Government, may be necessary for the efficient performance of the functions of the Commission under this Act. (2) The salaries 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 prescribed.

6. Salary and allowances to be paid out of grants.

- The salary and allowances payable to the Chairperson and members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in section 16.

7. Vacancies etc. not to invalidate proceedings of the Commission.

- No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy in, or defect in the constitution of the Commission or any defect in the appointment of a person acting as the Chairperson or a member or any irregularity in the procedure of the Commission, including issuing of notice for holding of a meeting, not affecting merits of the matter.

8. Committees of the Commission.

(1)The Commission may constitute such committee or committees, as may be considered necessary for the efficient performance, exercise and discharge of its functions, powers and duties, and also for dealing with such issues, as may be taken up by the Commission, from time to time.(2)The Commission shall have the power to appoint one or more person as it may consider appropriate, on the committee, or committees, as the case may members of the Commission, shall have the right to attend the meetings of the committee and take part in its proceedings, but shall not have the right to vote.(3)The person so appointed, shall be entitled to receive such allowance for attending the meetings of the Committee, as may be prescribed.(4)The Commission may invite any representative of the National Commission for Scheduled Castes and Scheduled Tribes to any of its meeting or may associate with itself, in such manner and for such purpose as it may deem necessary, any person whose assistance or advice, it may need in complying with any of the provisions of this Act or in carrying out any of its functions under this Act; and a person so invited or associated, shall have the right to take part in the discussion of the Commission, but shall not have the right to vote.

9. Procedure to be regulated by the Commission.

(1)The Commission or a committee thereof shall meet at such time and place as the Chairperson may decide.(2)The Commission shall regulate its own procedure and the procedure of the committees thereof.(3)All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

10. Powers and functions of the Commission.

(1)The Commission shall, while investigating any matter under this Act, have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely :-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery

and production of any documents;(c)receiving evidence on affidavits;(d)requisitioning any public record or copy thereof from any court or office;(e)issuing commissions for the examination of witnesses and documents; and(f)any other matter which may be prescribed.(2)The Commission shall perform all or any of the following functions, namely :-(a)to investigate and monitor all matters to the safeguards provided for the Scheduled Castes under the Constitution of India or under any other law for the time being in force or under any order of the Government and to evaluate, the working of such safeguards;(b)to participate and advise on the planning process of socio- economic development of the Scheduled Castes and to evaluate the progress of their development;(c)to make recommendations as to the measures that should be taken by the State Government for the effective implementations of the safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes.(d)to discharge such other functions in relation to the protection, welfare, development and advancement of the Scheduled Castes as may be prescribed;(e)to advise the Government on legislative and developmental policies affecting Scheduled Castes;(f)to undertake necessary steps at the Government and public level to protect the constitutional and legal rights of Scheduled Castes;(g)to monitor the implementation of laws and welfare measures concerning Scheduled Castes and initiate action for legal and administrative reforms to improve status of Scheduled Castes;(h)to investigate suo motu or on complaint with respect to the deprivation of rights or discrimination or victimization of the Scheduled Castes and to recommend remedial action to the Government and initiate judicial proceedings wherever necessary for effective remedy;(i)to conduct studies and research into the problems of Scheduled Castes and report the same to the Government for appropriate action;(j)to recommend prosecution in offences committed against Scheduled Castes and assist prosecution with evidence and legal services;(k)to conduct public interest litigation on behalf of groups of Scheduled Castes in general, and in special, in an individual case of a Scheduled Caste, who suffer or have suffered from injustice or discrimination or to intervene in any proceeding pending before a court relating to such matters with the permission of the court and provide legal aid and rehabilitation in deserving cases;(l)to present to the Government, annually and at such other times as the Commission may deem fit, reports upon the working of the safeguards referred to in the preceding clauses;(m)to make in such reports, recommendations for the effective implementation of the aforesaid safeguards for improving the conditions of Scheduled Castes by the Union or any State;(n)to review, from time to time, the existing provisions of the Constitution of India and other laws affecting Scheduled Castes and recommended amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcoming in such legislation; and(o)to suggest and recommend the measures for safeguarding and uplifting the status and conditions of Scheduled Castes and any other matter, which may be considered necessary and proper by the Commission for the welfare of Scheduled Castes or which may be referred to it by the Government.

11. Government to consult the Commission.

- The Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

12. Power of the Commission to utilize the services of certain officers and investigation agencies for conducting investigation.

(1)The Commission may, for the purpose of conducting investigation under the Act, utilize the services of, -(a)any officer or investigation agency of the State of Punjab or any other State or the Central Government with the concurrence of that Government; or(b)any other person.(2)For the purpose of conducting an investigation, any officer or agency referred to in clause (a) of sub-section (1), may, subject to the direction and control of the Commission, -(a)summon and enforce the attendance of any person and examine him;(b)require the discovery and production of any document; and(c)requisition any public record or copy thereof from any office.(3)Such officer or agency or the person shall investigate into the matter as directed by the Commission and submit a report thereon (hereinafter in this section referred to as "the investigation report") to the Commission within such period, as may be specified by the Commission in this behalf.(4)The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the investigation report submitted to it under sub-section (3), and for this purpose, the Commission may make such inquiry (including the examination of the person or persons, who conducted or assisted in the investigation), as it considers appropriate.

13. Statements made by persons to the Commission.

- No statement made by a person in the course of giving evidence before the Commission or an officer or agency, referred to in clause (a), or the person referred to in clause (b) of sub-section (1) of section 12, shall subject him to, or be used against him in any civil or criminal proceedings, except a prosecution for giving false evidence by such statement :Provided that the statement, -(a)is made in reply to a question, which is required by the Commission or such officer or agency or person to answer; or(b)is relevant to the subject matter under investigation.

14. Protection of acts done in good faith.

- No suit, prosecution or other legal proceedings shall lie against any member of the Commission or any officer or other employee of the Commission or any person acting, under the direction either of the Government or of the Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act, or any rule or order made thereunder.

15. Registration of voluntary organisations and seeking their assistance.

(1)Any voluntary organisation for Scheduled Caste within the State, may seek registration with the Commission for the purposes of this Act. The Commission may, after satisfying itself in the manner as it may consider appropriate about the importance and rule of such organisation in the society including the name of such organisation in its register.(2)The Commission may, in consultation with the voluntary organisation, evolve norms and standards on the basis of which registration of voluntary organisation is to be made.(3)The Commission shall maintain a register of voluntary organisation referred to in sub-section (1)(4)In discharge of its functions, the Commission may seek

the assistance of any such voluntary organisation.(5)A list of such organisations shall be made available to any court or authority or to the members of the general public on request.(6)If, for any reason to be recorded in writing, the Commission deems it appropriate to cancel the name of any organisation from its register, it may do so, after giving such organisation a reasonable opportunity of being heard.(7)The decision of the Commission about such cancellation shall be final.

16. Grants by the State Government.

(1)The State Government shall, after the due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants from the Consolidated Fund of the State, such sums of money, as the State Government may consider appropriate for being utilised for the purposes of this Act.(2)The Commission may utilise such sums of money as it considers appropriate for performing the functions under this Act and such sums of money shall be treated as expenditure payable out of the grants referred to in sub-section (1).

17. Accounts and Audit.

(1)The Commission shall maintain proper accounts and other relevant record and prepare annual statement of accounts in such forms, as may be prescribed by the Government.(2)The accounts of the Commission shall be audited by the Local Funds Examiner, Punjab, within three months after the close of each financial year and any expenditure in connection with such audit, shall be payable by the Commission to the Local Funds Examiner, Punjab.(3)The accounts of the Commission, as certified by the Local Fund Examiner, Punjab, together with the audit report thereon, shall be forwarded annually to the Government by the Commission.

18. 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.

19. Annual report and audit report to be liable before the State Legislature.

- 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 any of such recommendations, and the audit report, to be laid, as soon as may be, after the reports, are received, before the State Legislature.

20. Chairperson, members and staff of the Commission to be public servants.

- The Chairperson, members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

21. Penalty.

- Whoever being legally bound to obey any order of the Commission under section 10 or the order of an officer or investigation agency referred to in section 12 intentionally omits to do so or furnishes false information shall, on conviction, be punished under Section 174, 175, 176, 177, 178, 179 or 180, of the Indian Penal Code, as the case may be.

22. Cognizance of the offences.

- No court shall take cognizance of an offence specified in section 21, except on a complaint in writing of the Chairperson or a member or an officer, authorized by the Chairperson in this behalf.

23. Power to make rules.

(1)The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.(2)Every rule made under this section, shall be laid, as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten 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 successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter 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.

24. Powers to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make such provision including any adaptation or modification of any provision of this Act, as appears to the Government to be necessary or expedient for the purpose of removing the difficulty :Provided that no such order shall be made after the expiry of a period of six months from the date of the commencement of this Act.

25. Repeal and saving.

(1)The Punjab State Commission for Scheduled Castes Ordinance, 2004 (Punjab Ordinance No. 3 of 2004), is hereby repealed.(2)Notwithstanding such repeal, anything done or action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act.