

The Bihar State Commission for Backward Classes Act, 1993

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Act 12 of 1993

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The Bihar State Commission for Backward Classes Act, 1993(Bihar Act 12 of 1993)Published in the Bihar Gazette, Extraordinary, dated 1.8.1993.An Act to Constitute a State Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.Be it enacted by the Legislature of the State of Bihar in the Forty-fourth Year of the Republic of India as follows :

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the State Commission for Backward Classes Act, 1993.(2)It extends to the whole of the State of Bihar.(3)It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires:(a)"Backward Classes" means, such Backward Classes other than the Scheduled Castes and the Scheduled Tribes specified or to be specified in the Schedule appended to Bihar Act 3 of 1992;(b)"Commission" means the State Commission for Backward Classes constituted under Section 3;(c)"Lists" means lists prepared by the State Government from time to time for purpose of making provision for the reservation of appointments or posts in favour of Backward Classes of citizens which, in the opinion of the Government, are not adequately represented in the services under the State Government and any local or other authority within the State or under the control of the State Government;(d)"Member" means a Member of the Commission and includes the Chairperson;(e)"Prescribed" means prescribed by rules made under this Act.

Chapter II

The State Commission for Backward Classes

3. Constitution of the State Commission for the Backward Classes.

(1)The State Government shall constitute a body to be known as the State Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to it under this Act.(2)The Commission shall consist of the following members nominated by the State Government:-(a)a Chairperson;(b)a Social Scientist;(c)two persons, who have special knowledge in matters relating to backward Classes; and(d)a Member-Secretary, who is or has been an officer of the State Government in the rank of a Secretary, Special Secretary, Additional Secretary or Joint-Secretary to the Government of Bihar.

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

(1)Every Member shall hold office for a term of three years from the date he assumes office.(2)A member may, by writing under his hand addressed to the State Government, resign from the Office of Chairperson or, as the case may be, of Member at any time.(3)The State Government shall remove a person from the office of 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 State 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 action;(e)is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or(f)has, in the opinion of the State Government so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of Backward Classes or the public interests:Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.(4)A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.(5)The salaries and allowances payable to and the other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed.

5. Officers and other employees of the Commission.

(1)The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.(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. Salaries and allowances to be paid out of grants.

- The salaries 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 sub-section (1) of Section 12.

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

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

8. Procedure to be regulated by the Commission.

(1)The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.(2)The Commission shall regulate its own procedure.(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.

Chapter III

Functions and Powers of The Commission

9. Functions of the Commission.

- [(1) (a) The Commission shall examine request for inclusion of any class of citizen as a backward class in the list and hear complaints of over-inclusion or under-inclusion of any backward class in the list of Backward Classes (Schedule-2) and tender such advice to the State Government as it deems appropriate.(b)The Commission shall examine the complaints under any other law, Rules or instructions, for the time being in force, under the Constitution and by the State Government debarring from rights and protection and reservation admissible for Backward Classes for the entrance in public services and educational institutions and tender appropriate advice so that the State Government may take necessary action in this regard.(c)Execution of other works referred by the Government to the Commission also from time to time shall be made by the Commission.](2)The advice of the Commission shall ordinarily be binding upon the State Government.

10. Powers of the Commission.

- The Commission shall, while performing its functions under sub-section (1) of Section 9 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 document; (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 a witnesses and documents; and (f) any other matter which may be prescribed.

11. Periodic revision of lists by the State Government.

(1)The State Government, may, at any time and shall at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new Backward Classes.(2)The State Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

Chapter IV

Finance, Accounts and Audit

12. Grants by the State Government.

(1)The State Government shall pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.(2)The Commission may spend such sums as it thinks fit performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

13. Accounts and Audit.

(1)The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Accountant-General, Bihar.(2)The accounts of the Commission shall be audited by the Accountant General, 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 Accountant-General, Bihar.(3)The Accountant-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Accountant-General, Bihar generally has in connection with the 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 any of the offices of the Commission.

14. 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 State Government.

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

- The State Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under Section 9 and the reasons for the non-acceptance,

if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of State Legislature.

Chapter V

Miscellaneous

16. Chairperson, Members and employees of the Commission to be public servants.

- The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

17. Power to make rules.

(1)The State Government, may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-(a)salaries and allowances payable to, and other terms and conditions of service of the Chairperson and Members under sub-section (5) of Section 4 and of officers and other employees under sub-section (2) of Section 5;(b)the form in which the annual statement of accounts shall be maintained under sub-section (1) of Section 13;(c)the form in, and the time at which the annual report shall be prepared under Section 14;(d)any other matter which is required to be or may be, prescribed.(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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form 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 under the rule.

18. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government, may, by order published in the Official Gazette, make provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulty.(2)Every order made under this section shall, as soon as may be, after it is made, be laid before each House of State Legislature.

19. Repeal and Savings.

(1)The State Commission for Backward Classes Second Ordinance, 1993 (Bihar Ordinance No. 17 of 1993) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Ordinance were in force on the day on which such thing or action was done or taken.[Substituted by Bihar Act 5, 2008.]