

The Punjab State Vigilance Commission Act, 2006

PUNJAB

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Act 20 of 2006

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The Punjab State Vigilance Commission Act, 2006 Punjab Act No. 20 of 2006 Statement of Objects and Reasons. - While there is a Central Vigilance Commission established under the Central Commission Act, 2003 to inquire or cause to be inquired into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by the public servants of the Central Government, there is no such Commission in the State of Punjab. The corruption among public servants has become a serious problem, which has adversely affected the public service delivery system and the same is required to be tackled more effectively. The Governor-in-Council, in its meeting held on 6th June, 1991, while considering the Annual Administrative Report of the Vigilance Bureau for the year 1989 had decided as under:- "It was decided that the Department of Vigilance should examine the possibility of establishment of an independent Vigilance Commission on the lines of the Central Vigilance Commission for the State of Punjab." 2. It is, therefore, felt necessary to constitute a State Vigilance Commission for the State of Punjab. The object of constituting the State Vigilance Commission is to set up an independent body to exercise superintendence and control over the functioning of Vigilance and Police establishment in respect of investigation of offences under the Prevention of Corruption Act, 1988 more effectively. Published vide Punjab Government Gazette (Extraordinary), dated 11.9.2006, Page 1765. [Dated the 3rd October, 2006] Department of Legal and Legislative Affairs, Punjab No. 31-Legislative/2006. - The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 29th September, 2006, and is hereby published for general information :- An Act to provide for the constitution of the Punjab State Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention Corruption Act, 1988, by certain categories of public servants of the State Government, corporations, established by or under any State Act, Government companies, societies, local authorities, owned or controlled by the State Government and for the matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Punjab in the Fifty-seventh Year of the Republic of India as follows :-

Chapter I

Preliminary

1. Short title and commencement.

(1) This Act may be called the Punjab State Vigilance Commission Act, 2006. (2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Commission" means the Punjab State Vigilance Commission, constituted under sub-section (1) of Section 3; (b) "Government company" shall have the same meaning as assigned to it in the Companies Act, 1956; (c) "prescribed" means prescribed by rules made under this Act; (d) "State Government" means the Government of the State of Punjab; (e) "State Chief Vigilance Commissioner" means the State Chief Vigilance Commissioner, appointed under sub-section (1) of Section 4; (f) "Vigilance Commissioner" means a Vigilance Commissioner, appointed under sub-section (1) of Section 4; and (g) "Vigilance and Police Establishment" means the Vigilance Bureau or the Police entrusted with the inquiry and investigation of an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

Chapter II

The Punjab State Vigilance Commission

3. Constitution of the Commission.

(1) There shall be constituted a body to be known as the Punjab State Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act. (2) The Commission shall consist of -

(a) the State Chief Vigilance Commissioner; and .. Chairperson

(b) not more than two Vigilance Commissioners. .. Members

(3) The State Chief Vigilance Commissioner shall be appointed from amongst the persons, who have been or are in an All India Service or in any Civil Service of the Union or State or in a Civil post under the Union or State having knowledge and experience in matters relating to vigilance, policy making and administration including police administration and in the rank and scale of Secretary to Government of India or the Chief Secretary of the State or who have been a Judge of the High Court. (4) The Vigilance Commissioners shall be appointed from amongst the persons, who have been or are in an All India Service or in any Civil Service of the Union or State or in a civil post under the Union or State or a Government Company under or controlled by the Central Government

or the State Government, and who have expertise and experience in finance including insurance and banking, law, vigilance and investigations in the rank and pay scale of the Additional Secretary to Government of India or the Financial Commissioner of the State.(5)The State Government shall appoint a Secretary to the Commission on such terms and conditions, as it deems fit to exercise such powers and discharge such duties, as the Commission may by regulations specify in this behalf.(6)The headquarters of the Commission shall be at Chandigarh.

4. Appointment of the State Chief Vigilance Commissioner and the Vigilance Commissioners.

(1)The State Chief Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the Governor by warrant under his hand and seal :Provided that every appointment under this sub-section shall be made on the recommendation of a Committee consisting of -

- (a) the Chief Minister, Punjab; .. Chairman
- (b) the Speaker of the Punjab Vidhan Sabha; and .. Member
- (c) the Chief Secretary to Government of Punjab. .. Member

(2)No appointment of the State Chief Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in or any defect in the constitution of the Committee.

5. Terms and other conditions of service of the State Chief Vigilance Commissioner and Vigilance Commissioners.

(1)Subject to the provisions of sub-sections (3) and (4), the State Chief Vigilance Commissioner shall hold office for a term of six years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier. The State Chief Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.(2)Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of six years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier.(3)The State Chief Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the Governor, or some other person appointed in that behalf by him, an oath or affirmation in the Form, appended to this Act.(4)The State Chief Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand, addressed to the Governor, resign his office.(5)The State Chief Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in Section 6.(6)On ceasing to hold office, the State Chief Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for -(a)any assignment or appointment, which is required by law to be made by the Governor by warrant under his hand and seal; and(b)further employment to any office of profit under the State Government.(7)The salary and allowances payable to and the other conditions of service of -(a)the State Chief Vigilance Commissioner shall be the same as those of the Secretary to Government of India or the Chief Secretary of the State or a Judge of the High Court, as the case may be; and(b)the Vigilance Commissioner shall be the same as those of the Additional Secretary to Government of India or the Financial Commissioner of the State, as the case may

be: Provided that if the State Chief Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the State Government, his salary in respect of the service as the State Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, shall be reduced by the amount of that pension including any portion of pension, which was commuted and pension equivalent to other forms of retiral benefits, excluding pension equivalent to retirement gratuity : Provided further that if the State Chief Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of retiral benefits in respect of any previous service rendered in a corporation, established by or under any State Act or a Government company, owned or controlled by the State Government, his salary in respect of the service as the State Chief Vigilance Commissioner or, as the case may be, the Vigilance Commissioner, shall be reduced by the amount of pension equivalent to the retiral benefits : Provided further that the salary, allowances and pension payable to and the other conditions of service of the State Chief Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

6. Removal of the State Chief Vigilance Commissioner and the Vigilance Commissioner.

(1) Subject to the provisions of sub-section (3), the State Chief Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the Governor on the ground of proven misbehaviour or incapacity after the High Court, on a reference made to it by the Governor, has, on inquiry, reported that the State Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed. (2) The Governor may suspend from office, and if deemed necessary, prohibit also from attending the office during inquiry, the State Chief Vigilance Commissioner or any Vigilance Commissioner, as the case may be, in respect of whom a reference has been made to the High Court under sub-section (1), until the Governor has passed orders on receipt of the report of the High Court on such reference. (3) Notwithstanding anything contained in sub-section (1), the Governor may, by order, remove from office the State Chief Vigilance Commissioner or any Vigilance Commissioner, if the State Chief Vigilance Commissioner or such Vigilance Commissioner, as the case may be, - (a) is adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or (c) engages during his term of office in any paid employment outside the duties of his office; or (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a State Chief Vigilance Commissioner or a Vigilance Commissioner. (4) If the State Chief Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or is in any benefit or emolument arising therefrom otherwise than as a member and is in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. Power to make rules for the staff.

- The State Government may, in consultation with the Commission, make rules with respect to the number of members of the staff of the Commission and their conditions of service.

Chapter III

Powers and functions of the State Vigilance Commission

8. Powers and functions of the State Vigilance Commission.

(1)The powers and functions of the Commission shall be to -(a)exercise superintendence and control over the functioning of the Vigilance and Police Establishment in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 or offences with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial :Provided that while exercising the powers of superintendence, the Commission shall not exercise powers in such a manner so as to require the Vigilance Bureau to investigate or dispose of any case in a particular manner;(b)give directions to the Vigilance and Police Establishment for the purpose of discharging the responsibilities entrusted to it with reference to offences alleged to have been committed under the Prevention of Corruption Act, 1988, or offences with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial :Provided that while exercising the powers of giving directions, the Commission shall not exercise powers in such a manner so as to require the Vigilance Bureau to investigate or dispose of any case in a particular manner;(c)inquire or cause an inquiry or investigation to be made on a reference made by the State Government, wherein it is alleged that a public servant being an employee of the State Government or a corporation, established by or under any State Act, Government company, society and any local authority, owned or controlled by the State Government, has committed an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;(d)inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein, it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant, specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial;(e)review the progress of investigations conducted by the Vigilance and Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial;(f)review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988; or(g)tender advice to the State Government, corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by the Central Government, on vigilance cases related to the officers under its purview, and on such other matters, as may be referred to it by that Government, said Government companies, societies and local authorities, owned or controlled by the State Government; and(h)exercise

superintendence over the Vigilance Administration of the various departments of the State Government or corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by that Government :Provided that while exercising its powers to exercise superintendence over the Vigilance Administration, the Commission shall give due consideration to the instructions issued by the Central Vigilance Commission, established under the Central Vigilance Commission Act, 2003 (Central Act No. 45 of 2003).(2)The persons referred to in clause (d) of sub-section (1), are as follows :-(a)members of All India Services serving in connection with the affairs of the State and Group 'A' officers of the State Government;(b)such other level of officers holding civil posts under the State Government, as that Government may, by notification in the Official Gazette, specify in this behalf; and(c)such level of officers of the corporations, established by or under any State Act, Government companies, societies and other local authorities, owned or controlled by the State Government, as that Government may, by notification in the Official Gazette, specify in this behalf :Provided that till such time a notification is issued under sub- clauses (b) and (c), all officers of the State Government, and the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1).

9. Report of any inquiry made on reference by Commission to be forwarded to the Commission.

(1)The report of any inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.(2)The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the State Government and corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by that Government, as the case may be, as to the further course of action.(3)The State Government and the corporations, established by or under any State Act, Government companies, societies and other local authorities, owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action :Provided that where the State Government, any corporation, established by or under any State Act, Government company, society or local authority, owned or controlled by the State Government, as the case may be, does not agree with the advice of the Commission, it shall, for the reasons to be recorded in writing, communicate the same to the Commission.

10. Proceedings of the Commission.

(1)The proceedings of the Commission shall be conducted at its headquarters.(2)The Commission shall regulate the procedure for the transaction of its business and the allocation of business amongst the State Chief Vigilance Commissioner and other Vigilance Commissioners by such regulations, as may be made by it under this Act.(3)Save as provided in sub-section (2), all business of the Commission, shall, as far as possible, be transacted unanimously.(4)Subject to the provisions of sub-section (3), if the State Chief Vigilance Commissioner and other Vigilance Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.(5)The State Chief Vigilance Commissioner, or, if for any reason, he is unable to attend any meeting of the Commission, the senior-most Vigilance Commissioner present at the meeting, shall

preside over the meeting.(6)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 acting as the State Chief Vigilance Commissioner or as a Vigilance Commissioner; or(c)any irregularity in the procedure of the Commission not affecting the merits of the case.

11. Vigilance Commissioner to act as a State Chief Vigilance Commissioner in certain circumstances.

(1)In the event of the occurrence of any vacancy in the office of the State Chief Vigilance Commissioner by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Vigilance Commissioners to act as the State Chief Vigilance Commissioner, until the appointment of a new State Chief Commissioner to fill such vacancy, is made.(2)When the State Chief Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners, as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the State Chief Vigilance Commissioner until the date on which the State Chief Vigilance Commissioner resumes his duties.

12. Powers relating to inquiries.

- The Commission shall, while conducting any inquiry referred to in clauses (c) and (d) of sub-section (1) of Section 8, 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 India and examining him on oath;(b)requiring the discovery and production of any document;(c)receiving evidence on affidavits;(d)questioning any public record or copy thereof from any Court or office;(e)issuing commissions for the examination of witnesses or other documents; and(f)any other matter which may be prescribed.

13. Proceedings before the Commission to be judicial proceedings.

- All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code, 1860, and the Commission shall be deemed to be a "Civil Court" for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Chapter IV

Expenses and Annual Report

14. Expenses of the Commission to be charged on the Consolidated Fund of the State.

- The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the State Chief Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of the State.

15. Annual Report.

(1)It shall be the duty of the Commission to present annually to the Governor a report as to the work done by the Commission within six months of the close of the year under report.(2)The report referred to in sub-section (1), shall contain a separate part on the functioning of the Vigilance and Police Establishment insofar as it relates to the action with reference to the alleged offences under the Prevention of Corruption Act, 1988, or offences with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial.(3)On receipt of such report, the Governor shall cause the same to be laid before the House of the State Legislature.(4)A copy of the report submitted to the Governor shall also be submitted to the Commission.

Chapter V

Miscellaneous

16. Protection of actions taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Commission, the State Chief Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything, which is in good faith done or intended to be done under this Act.

17. State Chief Vigilance Commissioner, Vigilance Commissioners and staff to be public servants.

- The State Chief Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission, shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

18. Power to call for information.

- The Commission may call for reports, returns and statements from the State Government or corporations, established by or under any State Act, Government companies, societies and other local authorities, owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said

corporations, Government companies, societies and local authorities.

19. Consultation with the Commission in certain matters.

(1)The State Government in making any rules or regulations governing the vigilance or disciplinary matters relating to persons, appointed to public services and posts in connection with the affairs of the State, shall consult the Commission.(2)The State Government shall while taking a decision with reference to its powers under Section 25 or with regard to the action to be taken against a public servant with reference to vigilance matters, shall consult the Commission.

20. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)the number of members of the staff and their conditions of service under Section 7;(b)any other matter required under clause (f) of Section 12; and(c)any other matter which is required to be, or may be prescribed.

21. Power to make regulations.

(1)The Commission may, with the previous approval of the State Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-(a)the duties and the powers of the Secretary under sub-section (4) of Section 3; and(b)the procedure to be following by the Commission under sub- section (2) of Section 10.

22. Notification, rule etc. to be laid before the Legislative Assembly.

- Every notification issued under clause (b) of sub-section (2) of Section 8, and every rule made by the State Government, and every regulation made by the Commission under this Act, shall be laid, as soon as may be, after it is issued or 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 immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the notification or the rule or regulation, or the House agrees that the notification or the rule or regulation, as the case may be, should not be made, the notification or the rule or regulation 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 under that notification or rule or regulation.

23. Power to remove difficulties.

(1) If any difficulty, arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty : Provided that no order shall be made under this section 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, as soon as may be, after it is made, be laid before the House of the State Legislature.

24. Appointments etc. of officers of Directorate of Vigilance.

- Notwithstanding anything contained in any other law for the time being in force, -(a) the State Government shall appoint the Chief Director of Vigilance for the State on the recommendation of the Committee consisting of -

- (i) the Chief Minister, Punjab; .. Chairperson
- (ii) the State Chief Vigilance Commissioner; and .. Member
- (iii) the Chief Secretary to Government of Punjab; .. Member

(b) while making a recommendation, the Committee shall take into consideration the integrity, conduct and experience of the officers eligible for appointment; (c) no person below the rank and scale of Director General of Police or Additional Director General of Police of the State shall be appointed as a Chief Director of Vigilance; (d) the Chief Director of Vigilance shall not be transferred before he has rendered service as such for a minimum period of two years : Provided that the Chief Director of Vigilance may be transferred before two years with the previous consent of the Committee referred to in clause (a); (e) officers of the rank of Deputy Superintendent of Police and above, shall be appointed in the Vigilance Bureau on the recommendation of a Committee comprising of, -

- (i) the State Chief Vigilance Commissioner; .. Chairperson
- (ii) the Chief Secretary to Government of Punjab; and .. Member
- (iii) the Chief Director, Vigilance Bureau; .. Member

(f) on receipt of the recommendation made under clauses (a) and (e), the State Government shall pass such orders, as it thinks fit to give effect to the said recommendations.

25. Approval of the State Government to conduct inquiry or investigation.

(1) Notwithstanding anything contained in any other law for the time being in force, the Vigilance and Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988, or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial, except with the prior approval of the State Government where the allegation relates to, -(a) Group 'A' officers of the State Government; and (b) such officers, as are appointed by the State Government in corporations, established by or under any State Act, Government companies, societies and local authorities, owned or controlled by that Government. (2) Notwithstanding anything contained in

sub-section (1), no such approval shall be necessary for the cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than the legal remuneration referred to in clause (c) of the Explanation to Section 7 of the Prevention of Corruption Act, 1988.

26. Repeal and saving.

(1)The Punjab State Vigilance Commission Ordinance, 2006 (Punjab Ordinance No. 8 of 2006), is hereby repealed.(2)Notwithstanding such repeal, anything done or any 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.

Form[See Section 5(3)]Form of oath or affirmation to be made by the State Chief Vigilance Commissioner or Vigilance Commissioner"I, _____, having been appointed the State Chief Vigilance Commissioner or Vigilance Commissioner of the Punjab State Vigilance Commission,

do| swear in the name of Godsolemnly affirm| that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour; affection or ill-will and that I will uphold the Constitution and the laws."